AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

# FEDERAL REGISTER

Vol. 76 Wednesday,
No. 81 April 27, 2011

Pages 23449–23684

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.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

**The seal of the National Archives and Records Administration authenticates the Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

**How To Cite This Publication:** Use the volume number and the page number. Example: 76 FR 12345.

**Postmaster:** Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |

**General online information** **202–512–1530; 1–888–293–6498**

**Single copies/back copies:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public single copies | **1–866–512–1800 (Toll-Free)** |

**FEDERAL AGENCIES**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–741–6005** |
| Assistance with Federal agency subscriptions | **202–741–6005** |

**FEDERAL REGISTER WORKSHOP**

**THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT**

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, May 10, 2011
9 a.m.–12:30 p.m.

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. 81

Wednesday, April 27, 2011

**Agency for Toxic Substances and Disease Registry**
NOTICES
Draft Toxicological Profile; Availability, 23600–23601

**Agricultural Marketing Service**
PROPOSED RULES
Livestock Mandatory Reporting Regulations:
Wholesale Pork Reporting Negotiated Rulemaking Committee, 23513
NOTICES
Hass Avocado Promotion, Research, and Information Order:
Importer Associations and Assessment Computation, 23537
Meetings:
National Organic Standards Board; Correction, 23537

**Agriculture Department**
*See* Agricultural Marketing Service
*See* Animal and Plant Health Inspection Service
*See* National Agricultural Statistics Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23536–23537
Meetings:
Sabine National Forest Resource Advisory Committee, 23537

**Animal and Plant Health Inspection Service**
RULES
Interstate Movement of Regulated Nursery Stock:
Citrus Canker, Citrus Greening, and Asian Citrus Psyllid, 23449–23459

**Census Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Retail Trade Survey, 23542
Annual Survey of Manufactures, 23540–23541
Commodity Flow Survey, 23539–23540
Government Units Survey, 23541

**Centers for Disease Control and Prevention**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23601–23602

**Coast Guard**
RULES
Safety Zones:
Red River, 23485–23487
PROPOSED RULES
Safety Zones:
Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet–Saganashkee Channel, Chicago, IL, 23524–23528

**Commerce Department**
*See* Census Bureau
*See* Economic Development Administration
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Defense Acquisition Regulations System**
RULES
Defense Federal Acquisition Regulation Supplements:
Accelerate Small Business Payments, 23505–23506
Definition of Multiple-Award Contract, 23504–23505

**Defense Department**
*See* Defense Acquisition Regulations System
RULES
Civilian Health and Medical Program of the Uniformed Services; TRICARE Young Adult, 23479–23485

**Drug Enforcement Administration**
NOTICES
Importers of Controlled Substances; Registrations, 23626–23627
Manufacturers of Controlled Substances; Applications, 23627
Manufacturers of Controlled Substances; Registrations, 23627–23628

**Economic Development Administration**
NOTICES
Jobs and Innovation Accelerator Challenge:
A Coordinated Initiative to Advance Regional Competitiveness, 23543

**Education Department**
RULES
Race to the Top Fund, 23487–23489
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23572–23573

**Energy Department**
*See* Federal Energy Regulatory Commission
*See* Western Area Power Administration

**Environmental Protection Agency**
RULES
Prevention of Significant Deterioration and Nonattainment New Source Review:
Reconsideration of Inclusion of Fugitive Emissions;, 23489–23490
Tolerance Actions:
Aluminum tris(O–ethylphosphonate), Butylate, Chlorethoxyfos, Clethodim, et al., 23490–23498
NOTICES
Access to Confidential Business Information by Syracuse Research Corp., 23586–23587
Request for Nominations:
Science Advisory Board Panel on Accounting for Carbon Dioxide Emissions from Biogenic Sources, 23587–23588
Requests to Voluntarily Cancel Certain Pesticide Registrations, 23588–23596
Waiver of Buy American Requirement of the American Recovery and Reinvestment Act:
Virginia Department of Environmental Quality, 23596–23598

**Farm Credit Administration**
RULES
Federal Agricultural Mortgage Corporation Governance, etc.:
Risk-Based Capital Requirements, 23459–23469

**Federal Emergency Management Agency**
RULES
Suspension of Community Eligibility, 23498–23502
PROPOSED RULES
Flood Elevation Determinations, 23528–23535
NOTICES
Emergency Declarations:
North Dakota; Amendment No. 2, 23613
Environmental Assessments; Availability, etc.:
Hazard Mitigation Safe Room Construction, 23613–23614
Major Disaster Declarations:
New Mexico; Amendment No. 1, 23614
Oregon; Amendment No. 1, 23614

**Federal Energy Regulatory Commission**
RULES
Version One Regional Reliability Standard for Transmission Operations, 23470–23477
PROPOSED RULES
Availability of E-Tag Information to Commission Staff, 23516–23520
NOTICES
Combined Filings, 23573–23579
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Dempsey Ridge Wind Farm, LLC, 23580–23581
EverPower Wind Holdings, Inc., 23582
Golden Spread Panhandle Wind Ranch, LLC, 23582–23583
Highland North LLC, 23581–23582
Horseshoe Bend Wind, LLC, 23580
Howard Wind LLC, 23581
North Hurlburt Wind, LLC, 23583
Scylla Energy LLC, 23581
South Hurlburt Wind, LLC, 23579–23580

**Federal Highway Administration**
NOTICES
Final Federal Agency Actions on Proposed Highway in California, 23643

**Federal Maritime Commission**
NOTICES
Agreements Filed, 23598
Ocean Transportation Intermediary Licenses; Applicants, 23598–23599

**Federal Reserve System**
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 23599
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 23599

**Federal Transit Administration**
NOTICES
Solicitation of Nominations for Members of the Transit Rail Advisory Committee for Safety, 23644

**Fish and Wildlife Service**
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
Removal of Morelets Crocodile from Federal List; 12-Month Finding, 23650–23683
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Wildlife Refuge Special Use Permit Applications and Reports, 23616–23619
Environmental Impact Statements; Availability, etc.:
Development in Bexar County and the City of San Antonio, TX, 23619–23621
Meetings:
Trinity Adaptive Management Working Group, 23621

**Food and Drug Administration**
PROPOSED RULES
Periodic Reviews of Existing Regulations, 23520–23522

**Foreign Assets Control Office**
NOTICES
Foreign Narcotics Kingpin Designation Act; Additional Designations, 23644–23645

**Health and Human Services Department**
*See* Agency for Toxic Substances and Disease Registry
*See* Centers for Disease Control and Prevention
*See* Food and Drug Administration
*See* Health Resources and Services Administration
*See* National Institutes of Health
NOTICES
Findings of Research Misconduct, 23599–23600

**Health Resources and Services Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23602–23603

**Homeland Security Department**
*See* Coast Guard
*See* Federal Emergency Management Agency

**Housing and Urban Development Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for HUD/FHA Insured Mortgage Hope for Homeowners, 23615–23616
Quality Control Requirements for Direct Endorsement Lenders, 23615

**Indian Affairs Bureau**
NOTICES
Final Determination against Federal Acknowledgment of the Choctaw Nation of Florida, 23621–23623

**Interior Department**
*See* Fish and Wildlife Service
*See* Indian Affairs Bureau
*See* National Park Service
*See* Surface Mining Reclamation and Enforcement Office

**Internal Revenue Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23645–23646
Privacy Act; Systems of Records; Correction, 23646

**International Trade Administration**
NOTICES
Amended Final Results of Antidumping Duty Administrative Review:
Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China, 23543–23545
Initiation of Antidumping and Countervailing Duty Administrative Reviews, 23545–23548
Initiation of Antidumping Duty Investigations:
Certain Steel Nails from the United Arab Emirates, 23559–23564
Certain Stilbenic Optical Brightening Agents from the People's Republic of China and Taiwan, 23554–23559
Galvanized Steel Wire from the People's Republic of China and Mexico, 23548–23554
Initiation of Countervailing Duty Investigations:
Galvanized Steel Wire from the People's Republic of China, 23564–23568
Meetings:
Civil Nuclear Trade Advisory Committee, 23568–23569
Termination of the Suspension Agreements and Antidumping Duty Orders:
Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation, 23569–23570

**International Trade Commission**
NOTICES
Investigations:
Certain Video Game Systems and Wireless Controllers and Components Thereof, 23624

**Justice Department**
*See* Drug Enforcement Administration
NOTICES
Lodgings of Consent Decrees, 23624–23625
Lodgings of Proposed Consent Decrees, 23625–23626

**Legal Services Corporation**
RULES
Fee-Generating Cases, 23502–23504

**National Agricultural Statistics Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23538–23539

**National Highway Traffic Safety Administration**
RULES
Federal Motor Vehicle Safety Standards:
No. 108; Lamp, Reflective Devices and Associated Equipment, 23506–23511

**National Institutes of Health**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Biospecimen and Physical Measures Formative Research Methodology Studies for the National Children's Study, 23609–23611
Environmental Science Formative Research Methodology Studies for the National Children's Study, 23603–23605
Formative Research Methodology Studies for the National Children's Study, 23608–23609
Loan Repayment Programs, 23606–23608
Study Logistic Formative Research Methodology Studies for the National Children's Study, 23605–23606
Meetings:
National Institute of Dental and Craniofacial Research, 23612
National Institute of Mental Health, 23612
National Institute of Neurological Disorders and Stroke; Amendment, 23613
National Institute on Aging, 23611–23612

**National Oceanic and Atmospheric Administration**
RULES
Fisheries of the Economic Exclusive Zone Off Alaska:
Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska, 23511–23512
NOTICES
Incidental Taking of Marine Mammals:
Explosive Removal of Offshore Structures in the Gulf of Mexico, 23570–23571
Permits:
Marine Mammals and Endangered Species; File Nos. 15415 and 14622, 23571–23572

**National Park Service**
NOTICES
Environmental Impact Statements; Availability, etc.:
Backcountry Management Plan, Grand Canyon National Park, AZ, 23623–23624

**Nuclear Regulatory Commission**
PROPOSED RULES
Draft Regulatory Basis for Rulemaking:
Revision of Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste, 23513–23514
Enhanced Weapons, Firearms Background Checks, and Security Event Notifications, 23515–23516
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23628–23630
Meetings:
Advisory Committee On Reactor Safeguards Subcommittee on Planning and Procedures, 23630
Proposed Revision 2 to Standard Review Plan, 23630–23631

**Securities and Exchange Commission**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23631–23632
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Stock Exchange, Inc., 23634–23636
New York Stock Exchange LLC, 23637
NYSE Amex LLC, 23632–23634, 23637–23638

**Small Business Administration**
NOTICES
Disaster Declarations:
North Carolina, 23638–23639
Economic Injury Declarations:
Oklahoma, 23639
Revocations of Licenses, 23639–23640
Small Business Size Standards:
Waiver of the Nonmanufacturer Rule, 23640

**Social Security Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 23640–23641

**State Department**
**RULES**
Visas; Documentation of Nonimmigrants, 23477–23479
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Export Declaration of Defense Technical Data or Services, 23641–23642
Culturally Significant Objects Imported for Exhibition Determinations:
Marajo; Ancient Ceramics at the Mouth of the Amazon, 23642
Projects 95; Runa Islam, 23642
Sarcophagus, 23642
Meetings:
The 100,000 Strong Initiative Federal Advisory Committee, 23642–23643

**Statistical Reporting Service**
*See* National Agricultural Statistics Service

**Surface Mining Reclamation and Enforcement Office**
**PROPOSED RULES**
Oklahoma Regulatory Program, 23522–23524

**Thrift Supervision Office**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Financial Management Policies—Interest Rate Risk, 23646–23647

**Toxic Substances and Disease Registry Agency**
*See* Agency for Toxic Substances and Disease Registry

**Transportation Department**
*See* Federal Highway Administration
*See* Federal Transit Administration
*See* National Highway Traffic Safety Administration

**Treasury Department**
*See* Foreign Assets Control Office
*See* Internal Revenue Service
*See* Thrift Supervision Office

**Western Area Power Administration**
**NOTICES**
Application of Energy Planning and Management Program Power Marketing Initiative to Boulder Canyon Project, 23583–23586

---

**Separate Parts In This Issue**

**Part II**
Interior Department, Fish and Wildlife Service, 23650–23683

---

**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.


**7 CFR**
301 ..... 23449
**Proposed Rules:**
59 ..... 23513

**10 CFR**
**Proposed Rules:**
72 ..... 23513
73 (2 documents) ..... 23513, 23515

**12 CFR**
651 ..... 23459
652 ..... 23459

**18 CFR**
40 ..... 23470
**Proposed Rules:**
366 ..... 23516

**21 CFR**
**Proposed Rules:**
Ch. 1 ..... 23520

**22 CFR**
41 ..... 23477
42 ..... 23477

**30 CFR**
**Proposed Rules:**
936 ..... 23522

**32 CFR**
199 ..... 23479

**33 CFR**
165 ..... 23485
**Proposed Rules:**
165 ..... 23524

**34 CFR**
Ch. II ..... 23487

**40 CFR**
51 ..... 23489
52 ..... 23489
180 ..... 23490

**44 CFR**
64 ..... 23498
**Proposed Rules:**
67 ..... 23528

**45 CFR**
1609 ..... 23502

**48 CFR**
207 ..... 23504
232 ..... 23505

**49 CFR**
571 ..... 23506

**50 CFR**
679 ..... 23511
**Proposed Rules:**
17 ..... 23650

# Rules and Regulations

Federal Register
Vol. 76, No. 81
Wednesday, April 27, 2011

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

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 301

**[Docket No. APHIS–2010–0048]**

**RIN 0579–AD29**

## Citrus Canker, Citrus Greening, and Asian Citrus Psyllid; Interstate Movement of Regulated Nursery Stock

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** We are amending the regulations governing the interstate movement of regulated articles from areas quarantined for citrus canker, citrus greening, and/or Asian citrus psyllid (ACP) to allow the movement of regulated nursery stock under a certificate to any area within the United States. In order to be eligible to move regulated nursery stock, a nursery must enter into a compliance agreement with APHIS that specifies the conditions under which the nursery stock must be grown, maintained, and shipped. We are also amending the regulations that allow the movement of regulated nursery stock from an area quarantined for ACP, but not for citrus greening, to amend the existing regulatory requirements for the issuance of limited permits for the interstate movement of the nursery stock. We are making these changes on an immediate basis in order to provide nursery stock producers in areas quarantined for citrus canker, citrus greening, or ACP with the ability to ship regulated nursery stock to markets within the United States that would otherwise be unavailable to them due to the prohibitions and restrictions contained in the regulations while continuing to provide adequate safeguards to prevent the spread of the three pests into currently unaffected areas of the United States.

**DATES:** This interim rule is effective April 27, 2011. We will consider all comments that receive on or before June 27, 2011.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0048* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS–2010–0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2010–0048.

*Reading Room:* You may read any comments that we receive on this docket on the Regulations.gov Web site (see link above) or in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Osama El-Lissy, Director, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737–1238; (301) 734–5459; or Ms. Deborah L. McPartlan, Emergency and Domestic Programs, PPQ, APHIS, 4700 River Road Unit 160, Riverdale, MD 20737–1238; (301) 734–5356.

**SUPPLEMENTARY INFORMATION:**

### Background

Under section 412(a) of the Plant Protection Act (7 U.S.C. 7701 *et seq.,* referred to below as the PPA), the Secretary of Agriculture may prohibit or restrict the movement in interstate commerce of any plant or plant product, if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States. Under the PPA, the Secretary may also issue regulations requiring plants and plant products moved in interstate commerce to be subject to remedial measures determined necessary to prevent the spread of the pest, or requiring the plants or plant products to be accompanied by a permit issued by the Secretary prior to movement.

Citrus canker is a plant disease that is caused by the bacterium *Xanthomonas citri* subsp. *citri* that affects plants and plant parts of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants, which render the fruit unmarketable, and cause infected fruit to drop from the trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas. Citrus canker is known to be present in the United States in the State of Florida.

The regulations to prevent the interstate spread of citrus canker are contained in "Subpart—Citrus Canker" (7 CFR 301.75–1 through 301.75–14, referred to below as the citrus canker regulations). The citrus canker regulations designate the State of Florida as a quarantined area, and restrict the interstate movement of regulated articles from and through this area. Regulated articles are plants and plant parts of all species, clones, cultivars, strains, varieties, or hybrids of the genera *Citrus* and *Fortunella,* and all clones, cultivars, strains, varieties and hybrids of the species *Clausena lansium* and *Poncirus trifoliata.* Plants and plant parts include, among other articles, fruit, seed, and nursery stock. The provisions of the citrus canker regulations that pertain to the interstate movement of regulated nursery stock from areas quarantined for citrus canker are found in § 301.75–6.

Citrus greening, also known as Huanglongbing disease of citrus, is considered to be one of the most serious citrus diseases in the world. Citrus greening is a bacterial disease, caused by strains of the bacterial pathogen "*Candidatus* Liberibacter asiaticus," that attacks the vascular system of host plants. The pathogen is phloem-limited,

inhabiting the food-conducting tissue of the host plant, and causes yellow shoots, blotchy mottling and chlorosis, reduced foliage, and tip dieback of citrus plants. Citrus greening greatly reduces production, destroys the economic value of the fruit, and can kill trees. Once infected, there is no cure for a tree with citrus greening. In areas of the world where the disease is endemic, citrus trees decline and die within a few years and may never produce usable fruit. Citrus greening was first detected in the United States in Miami-Dade County, FL, in 2005, and is known to be present in the United States in Florida and Georgia, Puerto Rico, the U.S. Virgin Islands, two parishes in Louisiana, and two counties in South Carolina.

The bacterial pathogen causing citrus greening can be transmitted by grafting, and under laboratory conditions, by parasitic plants. There also is some evidence that seed transmission may occur. The pathogen can also be transmitted by two insect vectors in the family Psyllidae: *Diaphorina citri* Kuwayama, the Asian citrus psyllid (ACP), and *Trioza erytreae* (del Guercio), the African citrus psyllid. ACP can also cause economic damage to citrus in groves and nurseries by direct feeding. Both adults and nymphs feed on young foliage, depleting the sap and causing galling or curling of leaves. High populations feeding on a citrus shoot can kill the growing tip. ACP is currently present in Alabama, American Samoa,[1] Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, Texas, the U.S. Virgin Islands, and portions of Arizona, California, and South Carolina. Regular surveys of domestic commercial citrus-producing areas indicate that the African citrus psyllid is not present in the United States.

The regulations to prevent the interstate spread of citrus greening and ACP are contained in "Subpart-Citrus Greening and Asian Citrus Psyllid" (7 CFR 301.76 through 301.76–11, referred to below as the citrus greening and ACP regulations). The citrus greening and ACP regulations quarantine the States of Florida and Georgia, Puerto Rico, the U.S. Virgin Islands, two parishes in Louisiana, and two counties in South Carolina due to the presence of citrus greening, and quarantine Alabama, Florida, Georgia, Guam, Hawaii, Louisiana, Mississippi, Puerto Rico, Texas, the U.S. Virgin Islands, and portions of Arizona, California, and South Carolina due to the presence of ACP. The regulations also place restrictions on the interstate movement of regulated articles from quarantined areas. Regulated articles include all plants and plant parts, except fruit, of host species within the Family Rutaceae.

The provisions of the citrus greening and ACP regulations that pertain to the interstate movement of regulated nursery stock from areas quarantined for citrus greening and/or ACP are found in §§ 301.76–6 and 301.76–7. Section 301.76–6 contains specific conditions for the issuance of certificates and limited permits for regulated articles moved interstate from an area quarantined for ACP, but not for citrus greening. Section 301.76–7 contains specific conditions for the issuance of certificates and limited permits for regulated articles moved interstate from an area quarantined for citrus greening.

*Current Restrictions and Prohibitions on the Interstate Movement of Regulated Nursery Stock From Areas Quarantined for Citrus Canker, Citrus Greening, and/or ACP*

As we mentioned earlier in this document, the provisions of the citrus canker regulations that pertain to the interstate movement of regulated nursery stock from areas quarantined for citrus canker are found in § 301.75–6. This section prohibits the interstate movement of regulated nursery stock from a quarantined area, and prior to the publication of this interim rule, provided for only two exceptions to this general prohibition. The first exception allowed the interstate movement of kumquat plants, which have a natural resistance to citrus canker, in accordance with a protocol designed to ensure their freedom from citrus canker prior to movement. The other exception allowed regulated nursery stock to be moved interstate for immediate export.

Similarly, § 301.76–7 contains specific conditions for the issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for citrus greening, and prohibits the interstate movement of regulated nursery stock from such areas. Prior to issuance of this interim rule, there was only one exception in § 301.76–7 to this general prohibition on interstate movement: Nursery stock destined for immediate export and shipped under a protocol designed to ensure that it does not spread citrus greening into currently unaffected areas of the United States.

In contrast, our approach towards the movement of regulated nursery stock from areas quarantined for ACP, but not for citrus greening, has differed. This is because, while ACP can damage citrus nursery stock, its primary risk to nursery stock is as a vector of the bacterial pathogen that causes citrus greening. The risk that the artificial spread of ACP poses to currently unaffected areas of the United States, then, lies in its potential to introduce citrus greening to those areas.

Therefore, the citrus greening and ACP regulations currently allow the interstate movement of regulated nursery stock from areas quarantined for ACP, but not for citrus greening, provided that the nursery stock has been subject to remedial measures to prevent ACP from moving with the nursery stock. Specifically, § 301.76–6 allows for the movement of any regulated article from an area quarantined for ACP to any State, provided that, among other conditions, the articles are treated with methyl bromide and shipped in a container that has been sealed with an agricultural seal placed by an inspector after treatment.

In addition, prior to publication of this interim rule, § 301.76–6 allowed for the movement of regulated nursery stock to areas other than commercial citrus-producing areas[2] under a limited permit from an area quarantined for ACP, but not for citrus greening, provided that, among other conditions, the articles were treated before shipment with certain approved soil drenches and foliar sprays, inspected, and shipped in sealed containers. The citrus greening and ACP regulations have otherwise prohibited all other interstate movement of regulated nursery stock.

*Requests for a Systems Approach Under Which Citrus Nursery Stock May Be Moved Interstate*

The congressional findings set out in section 402 of the PPA describe USDA's responsibility to facilitate interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pest in ways that will reduce, to the extent practicable, the risk of dissemination of plant pests. It is APHIS' policy to impose restrictions on the interstate movement of host articles that are the least restrictive measures necessary to prevent the dissemination of plant pests within the United States.

For several years, various individuals and entities have requested that APHIS implement a systems approach that

[1] An established population of ACP was discovered in American Samoa in October 2010, and the entire island has been designated a quarantined area for ACP through administrative action.

[2] Commercial citrus-producing areas are American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, Northern Mariana Islands, Puerto Rico, Texas, and U.S. Virgin Islands.

could serve as the basis for allowing the interstate movement of citrus nursery stock to any area of the United States from areas quarantined for citrus canker, citrus greening, and ACP.

This request was first made by commenters during the comment period for an interim rule that was published in the **Federal Register** on March 22, 2007 and effective on March 16, 2007 (72 FR 13423–13428, Docket No. APHIS–2007–0032) that explicitly prohibited the interstate movement of citrus nursery stock, with the two limited exceptions mentioned earlier in this document, from the State of Florida. The commenters stated that, in lieu of such a general prohibition, APHIS should recognize the Citrus Nursery Stock Certification Program, established by the State of Florida in December 2006 to prevent the spread of citrus canker and citrus greening within and from that State, as sufficient to allow the interstate movement of nursery stock produced in that program.

In response to those comments, we examined the program thoroughly and determined that certain of its provisions did not adequately address the risk of the spread of citrus canker or citrus greening from Florida. We subsequently communicated this determination to the Florida Department of Agriculture and Consumer Services (FDACS), highlighting those aspects of the approach that we considered inadequate.

In response, FDACS requested APHIS' assistance in crafting a systems approach that would provide adequate phytosanitary measures to allow the interstate movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, and ACP. To this end, APHIS convened a technical working group, which recommended sourcing from a pest-exclusionary production facility and testing for all germplasm and budwood destined for propagation in nurseries within the State, construction and maintenance of pest-exclusionary production facilities and buffer zones, safeguarding, routine inspections, cleaning and disinfection protocols, and other measures that would be sufficient to address the concerns raised in our earlier evaluation. As a result of this collaboration with APHIS, FDACS presented a draft systems approach to us for evaluation in December 2008. The mitigation measures proposed in that systems approach appeared consistent with the recommendations of the technical working group.

However, because the movement of citrus nursery stock is considered to be a high-risk pathway for citrus canker and citrus greening, and because the introduction of citrus canker or citrus greening into currently unaffected commercial citrus-producing areas could have a lasting and deleterious effect on the U.S. industry as a whole, we did not initiate rulemaking at that time to establish such a systems approach. Rather, we decided to prepare an analysis of the risks associated with the interstate movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, and ACP.

*Risk Management Analysis*

APHIS has prepared a risk management analysis (RMA). The document, titled "Interstate Movement of Citrus and Other Rutaceous Plants for Planting to Non-Quarantine Areas in Any State," analyzes the movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, or ACP as a pathway for the introduction of citrus canker, citrus greening, and ACP into other areas of the United States. Consistent with the findings of the technical working group, the analysis also finds that a systems approach is necessary in order to mitigate the risk associated with such movement.

Because the nature of the three pests and the manner in which they are introduced into nursery stock vary, the exact nature of the necessary mitigation measures in the systems approach will correspondingly vary based on whether the nursery stock is produced in an area quarantined for citrus canker, citrus greening, or ACP, or a combination of these three pests. However, the analysis finds that each such systems approach must be predicated upon two critical elements: Pest exclusion and system monitoring.

The analysis describes pest exclusion as consisting of the following core components: Testing the citrus nursery stock that will be moved interstate for citrus greening, certifying the nursery stock as free of citrus greening, growing the nursery stock in approved structures that are constructed to exclude introduction of the relevant pests, maintaining a controlled space around the structure that is free of citrus, and safeguarding the nursery stock within the structure to prevent pest introduction.

The analysis describes system monitoring as consisting of the following core components: Inspecting the nursery stock within the structure on a routine basis, conducting an unannounced inspection at least once yearly, testing a statistically valid sample of the plants within the nursery for citrus greening on a recurring schedule, surveying the nursery regularly for quarantine pests, responding to breaches of the facility with appropriate remediation, and maintaining quality assurance, including but not limited to accurate recordkeeping and labeling, as well as standard operating procedures for cleaning and disinfection.

The RMA may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** at the beginning of this document.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**. We request comment on the analysis, especially any scientific studies that may be pertinent.

*Protocol Document*

Based on the determination of the RMA that a systems approach is necessary to mitigate the risk associated with the interstate movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, and/or ACP, APHIS prepared a draft protocol document that used core components suggested in the RMA as the basis for standards and requirements that a nursery would have to meet in order to move citrus nursery stock interstate from such areas. APHIS then shared the draft protocol with nursery stock producers and State agricultural officials. In response to the input we received, we revised some of the conditions in the protocol document to provide alternative standards or requirements that were equivalent to the core components identified in the RMA. By meeting the standards and requirements, a nursery would be able to obtain a certificate or limited permit [3] for the interstate movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, or ACP.

The protocol document is divided into five sections. Section I provides general requirements. Under this section, each nursery that wishes to obtain a certificate to move regulated nursery stock interstate must enter into a compliance agreement with APHIS in which it agrees to observe the protocol's minimum construction standards for a pest-exclusionary production facility; sourcing and certification requirements for all propagative material grown in the facility; cleaning, disinfecting, and safeguarding requirements for the

[3] APHIS authorizes certificates to be issued when an article can safely be moved interstate from a quarantine area without any risk of spreading a quarantine pest, and limited permits when, in order to address a risk of plant pest dissemination, limits must be placed on the distribution or utilization of the article.

facility; labeling requirements for the nursery stock maintained in the facility; and recordkeeping and inspection requirements.

The protocol also contains additional conditions for interstate movement of regulated nursery stock that the nursery would have to agree to observe; each set of additional conditions addresses disease risks associated with the area in which the nursery is located: Section II of the protocol document sets forth additional requirements for interstate movement of regulated nursery stock from areas quarantined for citrus canker; section III, for areas quarantined for ACP; and section IV, for areas quarantined for citrus greening.

Section V of the protocol provides conditions for the issuance of limited permits for the interstate movement of regulated nursery stock from areas that are quarantined for ACP, but not citrus greening. These conditions match the requirements of § 301.76–6 in this interim rule. Our changes to § 301.76–6 are discussed later in this rule.

The protocol document may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** at the beginning of this document). In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**. It is also available on the Plant Protection and Quarantine (PPQ) Web site at *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml.*

We believe that the procedures set forth in the protocol document will provide the necessary safeguards to allow the interstate movement of citrus nursery stock from areas quarantined for citrus canker, citrus greening, or ACP to any area of the United States. It may, however, be necessary for us to propose to update the protocol document as circumstances warrant. We envision that these proposed updates will usually be nonsubstantive, and will be intended to further delineate the protocol's provisions or provide additional options to the mitigation strategies currently contained in the document. APHIS believes that the ability to revise the protocol document is necessary because new scientific information on the risks associated with ACP, citrus greening, and citrus canker continues to be published at a rapid pace. As new information comes to light, APHIS must be able to adjust its quarantine protocols in a flexible manner. If we are proposing substantive modifications, however, we will publish a notice in the **Federal Register** containing the nature of and rationale for these proposed revisions, and requesting public comment. In such instances, if, after the close of the comment period, we continue to consider it necessary to update the protocol document, we will do so accordingly. We request comment on this approach and whether it provides sufficient avenue for input from the public.

Whenever we update the protocol document, we will notify each State agricultural official and holder of a compliance agreement of the changes, and compliance agreements will be updated to reflect the updated protocol. It will be necessary for those operating under a compliance agreement to sign the updated agreement in order to continue to be eligible to continue shipping citrus nursery stock interstate. Other interested parties can receive notification of these updates by subscribing to the PPQ stakeholder registry at *https://web01.aphis.usda.gov/PPQStakeWeb2.nsf.*

**Regulatory Changes**

We are amending the citrus canker and citrus greening and ACP regulations to reflect the findings of the RMA and the provisions of the protocol document and allow the interstate movement of regulated nursery stock to any area of the United States, under certain conditions. To accommodate these amendments, we are also amending several other provisions of the citrus canker and citrus greening and ACP regulations that would otherwise have been in conflict with the amendments.

*Citrus Canker Regulations*

As we mentioned earlier in this document, the provisions of the citrus canker regulations that pertain to the interstate movement of regulated nursery stock from areas quarantined for citrus canker are found in § 301.75–6. Prior to the publication of this interim rule, paragraph (a) of § 301.75–6 explicitly prohibited the interstate movement of regulated nursery stock from a quarantined area, unless the nursery stock was moved in accordance with paragraph (b) or (c) of the section. Paragraph (b) allowed the interstate movement of kumquats in accordance with a protocol designed to ensure their freedom from citrus canker prior to movement. Paragraph (c) stated that nursery stock produced in a nursery located in a quarantined area that is not eligible for movement under paragraph (b) of could be moved interstate only for immediate export.

We are redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) in its place. This new paragraph (c) of § 301.75–6 provides that regulated nursery stock produced in a nursery within a quarantined area may be moved interstate to any area within the United States, if all of the following conditions are met:

- The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in the protocol document described above. In addition to being available on the APHIS Web site, the protocol document will be provided to the person at the time he or she enters into the compliance agreement. The compliance agreement may also specify additional conditions determined by APHIS to be necessary to prevent the dissemination of citrus canker under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will specify that APHIS may amend the agreement.
- An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.
- The nursery stock is accompanied by a certificate issued in accordance with § 301.75–12.
- The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container. We are requiring such containers in order to safeguard the nursery stock against wind and rain events that may lead to the introduction of citrus canker.
- A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

Because of this new paragraph (c), there are now two paragraphs in § 301.75–6 which allow nursery stock to be moved interstate for purposes other than immediate export. As a result, we are amending newly designated paragraph (d) to provide that nursery stock that is not eligible for movement under either of the paragraphs may be moved interstate only for immediate export. For a similar reason, we are also amending paragraph (a) of § 301.75–6 to authorize interstate movement of nursery stock under the conditions in any of the subsequent paragraphs in the section.

The certificate accompanying the container and accompanying waybill of the nursery stock being moved must be attached in a manner that varies from the general requirements for attachment and disposition of certificates contained

in the citrus canker regulations. Accordingly, we are amending paragraph (b) of § 301.75–12, which contains general requirements for attachment and disposition of certificates, to exempt nursery stock moved under the conditions of paragraph (c) of § 301.75–6 from those general requirements.

Prior to the publication of this interim rule, the citrus canker regulations stated that we would cancel a compliance agreement if an inspector found that the person who entered into the compliance agreement had failed to comply with the regulations. However, under paragraph (c) of § 301.75–6, the conditions under which a nursery must grow, maintain, and ship nursery stock in order to obtain a certificate for its movement to any area of the United States are found not in the citrus canker regulations themselves, but in the compliance agreement that the nursery has entered into with APHIS. Accordingly, failure by the nursery to comply with any term or condition of the compliance agreement could present a risk that regulated nursery stock at the facility becomes infected with citrus canker and that the movement of the regulated nursery stock presents a pathway for the artificial spread of the disease to unaffected areas of the United States. Therefore, we are amending paragraph (b) of § 301.75–13, which contains our provisions for cancellation of a compliance agreement, to state that failure to comply with any term or condition of the compliance agreement itself will also result in cancellation of the compliance agreement.

Finally, in § 301.75–1, the definition of *compliance agreement* has described them as being between APHIS and persons engaged in the business of growing or handling regulated articles. However, because of the manner in which compliance agreements are used within paragraph (c) of § 301.75–6, we consider it necessary to expand the scope of the definition so that it also refers to persons engaged in maintaining, processing, packing, and moving regulated articles. We are amending the definition of *compliance agreement* accordingly.

*Citrus Greening Regulations*

As we mentioned earlier in this document, § 301.76–7 contains specific conditions for the issuance of certificates and limited permits for regulated articles moved interstate from an area quarantined for citrus greening.

Prior to the publication of this interim rule, the only conditions for the movement of regulated articles from an area quarantined for citrus greening were found in paragraph (a) of § 301.76–7. This paragraph allowed for the issuance of limited permits to move regulated nursery stock interstate, if the nursery stock was destined for immediate export and shipped under a protocol designed to ensure that it did not present a pathway for the introduction of citrus greening to currently unaffected areas of the United States. To clarify that this was the only condition under which regulated articles could be moved interstate from an area quarantined for citrus greening, paragraph (b) of § 301.76–7 stated that, except for nursery stock for which a limited permit has been issued in accordance with § 301.76–7(a), no other regulated article may be moved interstate from an area quarantined for citrus greening.

We are adding a new paragraph (a) to § 301.76–7 and redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively. The new paragraph (a) provides that, in addition to the general conditions for issuance of a certificate, an inspector or person operating under a compliance agreement may issue a certificate for interstate movement of regulated nursery stock to any State if all of the following conditions are met:

- The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in the PPQ protocol document. In addition to being available on the APHIS Web site, the protocol document will be provided to the person at the time he or she enters into the compliance agreement. The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the dissemination of citrus greening under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will also specify that APHIS may amend the agreement.
- An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.
- The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container.
- A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

Because both paragraphs (a) and (b) of § 301.76–7 now contain conditions for the interstate movement of regulated nursery stock from an area quarantined for citrus greening, we are amending newly redesignated paragraph (c) of § 301.76–7 to specify that apart from nursery stock moved in accordance with either of those paragraphs, no other regulated article may be moved interstate from an area quarantined for citrus greening.

These revisions to § 301.76–7 also require us to make certain nonsubstantive changes to other sections of the citrus greening regulations.

We currently require all regulated nursery stock offered for commercial sale within an area quarantined for citrus greening to have an APHIS-approved label on which a statement alerting consumers to Federal prohibitions regarding the interstate movement of the article is prominently and legibly displayed, unless the regulations grant an exemption from the requirement. We are amending § 301.76–4, which contains the labeling requirement and the exemptions from it, to grant such an exemption to plants moved under paragraph (a) of § 301.76–7, since the interstate movement of such plants is not prohibited.

We are also amending the conditions in the citrus greening regulations that will lead us to cancel a compliance agreement. We modeled these conditions on those in the citrus canker regulations, and are amending them for the same reason we are amending those in the citrus canker regulations.

*ACP Regulations*

As we mentioned earlier in this document, § 301.76–6 of the ACP and citrus greening regulations contains specific conditions for the interstate movement of regulated articles from areas quarantined for ACP, but not for citrus greening. Prior to the publication of this interim rule, the only conditions under which a certificate would be issued for the interstate movement of regulated nursery stock were found in paragraph (a) of § 301.76–6. The paragraph allows a certificate to be issued for the interstate movement of any regulated article, including citrus nursery stock, provided that:

- The article is treated with methyl bromide in accordance with 7 CFR part 305. That part contains our phytosanitary treatment regulations, and sets out standards for treatments required in 7 CFR part 301.
- The article is shipped in a container that has been sealed with an agricultural seal placed by an inspector.

• The container that will be moved interstate is clearly labeled with the certificate.

• A copy of the certificate will be attached to the consignee's copy of the accompanying waybill.

Because methyl bromide is phytotoxic, that is, deadly or damaging to propagative plants and plant parts, producers have informed us that few plants have been moved under these conditions.

In addition to the conditions in paragraph (a), prior to the issuance of this interim rule, the only other conditions for interstate movement of regulated nursery stock from an area quarantined for ACP were found in paragraph (b) of § 301.76–6; this paragraph provided conditions for the issuance of limited permits for such movement to areas other than commercial citrus-producing areas.

We are redesignating this paragraph as paragraph (c). We are also substantively revising the conditions for issuance of such a limited permit. We discuss the revised conditions, and the considerations that led us to revise them, at length below.

To accommodate this redesignation, we are also redesignating the previous paragraph (c), which contains conditions for the issuance of limited permits for regulated articles intended for consumption, for use as apparel or as a similar personal accessory, or for decorative use, as new paragraph (d).

We are adding a new paragraph (b) to § 301.76–6. This is because, based on the findings of the RMA, we have determined that we can provide another set of conditions for issuance of a certificate for the interstate movement of regulated nursery stock from areas quarantined only for ACP. These conditions are:

• The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in the PPQ protocol document. In addition to being available on the APHIS Web site, the protocol document will be provided to the person at the time he or she enters into the compliance agreement. The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the spread of ACP under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. For example, we may require additional safeguarding measures beyond those specified in the protocol document for facilities located in areas with high population densities of ACP. The compliance agreement will also specify that APHIS may amend the agreement.

• An inspector determines that the nursery has adhered to all terms and conditions of the compliance agreement.

• The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate, and is moved interstate in that container. We are requiring a sealed container in order to safeguard the nursery stock against possible reintroduction of ACP.

• A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

As we mentioned above, newly redesignated paragraph (c) of § 301.76–6 contains conditions for issuance of a limited permit for interstate movement of regulated nursery stock.

Prior to the publication of this interim rule, this paragraph provided for the issuance of limited permits for the interstate movement of regulated nursery stock to areas of the United States other than American Samoa, Northern Mariana Islands, and those portions of Arizona, California, and South Carolina not quarantined due to the presence of ACP or citrus greening, if:

• The nursery stock is treated for ACP with an APHIS-approved soil drench or in-ground granular application no more than 30 days and no fewer than 20 days before shipment, followed by an APHIS-approved foliar spray no more than 10 days before shipment. All treatments must be applied according to their Environmental Protection Agency label, including directions on application, restrictions on place of application and other restrictions, and precautions, and including statements pertaining to Worker Protection Standards.

• The nursery stock is inspected by an inspector in accordance with § 301.76–9 and found free of ACP.

• The nursery stock is affixed prior to movement with a plastic or metal tag on which the statement "Limited permit: USDA–APHIS–PPQ. Not for distribution in American Samoa, Northern Mariana Islands, or those portions of AZ, CA, and SC not quarantined due to the presence of Asian citrus psyllid or citrus greening" is prominently and legibly displayed. If the nursery stock is destined for movement or sale in boxes or containers, the statement may be printed on the box or container, or printed on a label permanently affixed to the box or container, provided that, in either case, the statement is prominently and legibly displayed.

• The nursery stock is moved in a container sealed with an agricultural seal placed by an inspector.

• This container also prominently and legibly displays the statement of the limited permit.

• A copy of the limited permit is attached to the consignee's copy of the accompanying waybill.

• The nursery stock is moved in accordance with the conditions specified on the limited permit to the location specified on the permit.

The conditions in the regulations before this interim rule were established in a prior interim rule published in the **Federal Register** and effective on June 17, 2010 (75 FR 34322–34336, Docket No. APHIS–2008–0015).[4] Several commenters on the June 2010 rule stated that certain of the conditions unnecessarily hindered interstate commerce. Two commenters stated that the 10-day timeframe for the application of soil drenches or granular applications was impracticable for smaller producers, who often did not know the expected date of interstate movement of an article that far in advance. While recognizing the need for optimal absorption of the soil drench, the commenters requested a longer window of time for the application of that treatment.

Similarly, two commenters stated that, by requiring the articles to be sealed in a shipping container and inspectors to seal each container with an agricultural seal prior to movement, we were, in effect, limiting shipment of the articles to normal business hours (8 a.m. to 4:30 p.m., Monday through Friday). The commenters stated that their shipments traditionally have tended to occur overnight or in the early morning. Because of these economic considerations, the commenters questioned whether the conditions were strictly necessary, especially for nursery stock that is not destined for an area in which ACP could become established.

In addition, around the same time that these comments were received, State agricultural officials from several commercial citrus-producing States contacted APHIS on behalf of their producers to suggest a different scope and timing for inspections. The officials stated that inspections of the whole nursery at set intervals would prove more practicable than inspections of plants in the days preceding shipment.

In order to respond to these comments and requests, we first reviewed the

[4] Section 301.76–4 of that rule was effective on September 15, 2010, rather than June 17, 2010.

relevant scientific literature. In particular, we evaluated a 2008 presentation at the International Research Conference on Huanglongbing by P.T. Yamamoto et al., which examined the efficacy of various insecticides to control ACP.[5] Yamamoto and his colleagues found that the residual effect of imidacloprid and other soil drenches on nursery stock is considerably longer than previously thought—in certain instances, as long as 105 days. Yamamoto's research suggests that soil drenches can be applied up to 90 days and no less than 30 days prior to shipment, provided that they are coupled with subsequent foliar sprays no more than 10 days before shipment.

Based on Yamamoto's findings, we evaluated the risk of dissemination of ACP that would be associated with a regulatory scheme for the movement of citrus nursery stock from ACP quarantined areas to areas other than commercial citrus-producing areas under which inspections of the entire nursery for ACP occurred at set intervals, soil drenches could be applied up to 90 days before shipment, and plants were not required to be shipped in sealed containers.

We determined that, under the provisions of this regulatory scheme, the risk that ACP would be introduced to the plants prior to shipment would be commensurately greater. Such introduction, however, would not necessarily lead to further dissemination of ACP within the United States. Rather, the risk of such dissemination would be directly correlated to whether the nursery stock transited through commercial citrus-producing areas, that is, areas where host articles are prevalent, and climatic conditions are conducive to ACP becoming established in significant population densities. If the nursery stock were to transit such areas, as additional mitigation measures, it would need to be inspected and found free of ACP no more than 72 hours before shipment and would need to be shipped in a container sealed with an agricultural seal affixed by an inspector; moreover, the seal would have to remain affixed throughout transit and be removed by an inspector at its destination.

Accordingly, paragraph (c) of § 301.76–6 establishes two separate sets of conditions for issuance of a limited permit for interstate movement of regulated nursery stock from areas quarantined for ACP, but not for citrus greening.

In addition to all general conditions for issuance of a limited permit, paragraphs (c)(1) through (c)(1)(vi) provide that, if the nursery stock will not be moved through a commercial citrus-producing area (American Samoa, Arizona, California, Florida, Guam, Hawaii, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands), an inspector or person operating under a compliance agreement may issue a permit for the interstate movement of regulated nursery stock to areas of the United States other than Northern Mariana Islands or those portions of Arizona and California that are not quarantined due to the presence of ACP or citrus greening, if:

- The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in accordance with § 301.76–8.
- All citrus nursery stock at the nursery has been inspected by an inspector every 30 days, and any findings of ACP during an inspection have been reported to APHIS immediately.
- The nursery stock is treated for ACP with an APHIS-approved soil drench or in-ground granular application no more than 90 days and no fewer than 30 days before shipment, followed by an APHIS-approved foliar spray no more than 10 days before shipment. All treatments must be applied according to their EPA label, including directions on application, restrictions on place of application and other restrictions, and precautions, and including statements pertaining to Worker Protection Standards.
- The nursery stock is affixed prior to movement with a plastic or metal tag on which the statement "Limited permit: USDA–APHIS–PPQ. Not for distribution in Northern Mariana Islands or those portions of AZ and CA not quarantined due to the presence of Asian citrus psyllid or citrus greening" is prominently and legibly displayed on the obverse, and adequate information as determined by APHIS regarding the identity of the nursery stock and its source of production to conduct traceback to the nursery in which the nursery stock was produced is prominently and legibly printed on the reverse. If the nursery stock is destined for movement or sale in boxes or containers, the statement and the identifying information may be printed on the box or container, or printed on a label permanently affixed to the box or container, provided that, in either case, the statement and the identifying information are prominently and legibly displayed.
- A copy of the limited permit will be attached to the consignee's copy of the accompanying waybill.
- The nursery stock is shipped in accordance with the conditions specified on the limited permit to the destination specified on the permit.

We are requiring that the nursery enter into a compliance agreement with APHIS in order to ensure, among other things, that the nursery maintains records of inspections and treatments for APHIS review.

We are requiring the tag on which the limited permit statement is printed to have adequate information as determined by APHIS regarding the identity of the nursery stock and its source of production to conduct traceback to the nursery in which the nursery stock was produced because, as we noted above, there is some risk under these regulatory provisions that ACP will be introduced to the nursery stock at the nursery. In the event that the soil drenches and foliar sprays do not achieve 100 percent mortality of this ACP prior to movement, there is a corresponding degree of risk that live ACP may be on the plants when they reach their point of destination. In such instances, APHIS will use the information on the tags in order to review the recordkeeping of the nursery in which the nursery stock was produced. While this review is ongoing, we will also prohibit the nursery from shipping articles interstate.

Finally, we are removing the requirement that the nursery stock be shipped in a sealed container because this regulatory scheme focuses not on the possibility that a few ACP may be reintroduced into the nursery stock prior to interstate movement of the plants, but rather on the likelihood that such reintroduction will result in the artificial spread of ACP.

Paragraphs (c)(2) through (c)(2)(vi) establish conditions for the issuance of limited permits for regulated nursery stock that will be moved through a commercial citrus-producing area to another area. In addition to the general conditions for issuance of a limited permit, an inspector or person operating under a compliance agreement may issue a limited permit for such movement, if:

- All conditions for movement of regulated nursery stock in paragraphs (c)(1)(i) through (c)(1)(vi) of § 301.76–6, that is, all conditions of the new

[5] Yamamoto, P.T., *et al.* 2008. *Efficiency of Insecticides to Control Diaphorina citri, Vector of Huanglongbing.* T. Gottwald, W. Dixon, J. Graham, P. Berger, eds. International research conference on Huanglongbing. Plant Management Network International, Orlando, Florida. Copies available from the individuals listed under **FOR FURTHER INFORMATION CONTACT.**

regulatory scheme discussed immediately above, are fulfilled.

- The nursery stock is inspected by an inspector on the date of shipment and found free of ACP.
- The nursery stock is completely enclosed in a sealed container and is moved interstate in that container.
- The container prominently and legibly displays the required limited permit statement and identifying information.
- The agricultural seal remains intact throughout movement to the destination specified on the limited permit.
- The agricultural seal is removed at the destination specified on the limited permit by an inspector.

These revisions to § 301.76–6 entail a nonsubstantive modification to § 301.76–9. Prior to the publication of this interim rule, § 301.76–9 had provided, among other things, that all regulated nursery stock intended for interstate movement for immediate export from an area quarantined for citrus greening, as well as all regulated nursery stock treated with soil drenches and foliar sprays prior to interstate movement from an area quarantined for ACP, but not for citrus greening, had to be inspected by an inspector no more than 72 hours prior to movement.

However, as we mentioned above, inspections of regulated nursery stock to be moved interstate under a limited permit must now take place at set intervals and must be coupled with an inspection on the date of shipment if the nursery stock will transit such a commercial citrus-producing area. Accordingly, we are amending § 301.76–9 so that it now refers only to citrus nursery stock that is intended for interstate movement for immediate export.

These changes to the citrus canker, citrus greening, and ACP regulations will provide nursery stock producers in areas quarantined for citrus canker, citrus greening, or ACP with the ability to ship regulated nursery stock to markets within the United States that would otherwise be unavailable to them due to the prohibitions and restrictions contained in the regulations while continuing to provide adequate safeguards to prevent the spread of the three pests into currently unaffected areas of the United States.

Immediate Action

Immediate action is warranted to provide a degree of relief to existing prohibitions and restrictions on the interstate movement of regulated nursery stock to certain nurseries who enter into compliance agreements with APHIS. Specifically, such action will provide producers with a means to ship regulated nursery stock to previously unavailable markets within the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register.**

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register** in which we will respond to the comments we receive and finalize or, as necessary, revise the provisions of this interim rule. APHIS intends to publish this follow-up document within 18 months of the publication of this interim rule.

**Executive Order 12866, Executive Order 13563, and the Regulatory Flexibility Act**

This interim rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis regarding the economic effects of this rule on small entities. The analysis identifies nurseries that produce and handle regulated nursery stock as entities potentially affected by this interim rule. The analysis identifies the primary costs of the rule as those a nursery would need to assume in order to meet all terms and provisions of a compliance agreement that it has entered into with APHIS and that specifies the conditions under which the regulated nursery stock at the nursery must be grown, maintained, and shipped in order for it to be moved interstate. While these costs will vary from nursery to nursery, APHIS has estimated the aggregate cost to the industry of certain provisions that will be found in every compliance agreement. We estimate that the total cost to the industry of constructing enclosed facilities that meet our minimum requirements will be between $1.3 million and $3.2 million, and that the total cost of meeting labeling requirements for each plant propagated in such facilities will be between $119,070 and $340,000. We have determined that the rule will benefit the citrus industry in the United States by providing nurseries in quarantined areas with an opportunity for access to domestic markets that would otherwise be unavailable to them and by ensuring ongoing production of disease-free plants, which is vital to the preservation of both the U.S. citrus nursery stock and U.S. citrus fruit industries.

The full analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection and recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0369 to the information collection and recordkeeping requirements.

We plan to request continuation of that approval for 3 years. Please send written comments on the 3-year approval request to the following addresses: (1) Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503; and (2) Docket No. APHIS–2010–0048, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. APHIS–2010–0048 and send your comments within 60 days of publication of this rule.

This interim rule will require persons to complete various forms and documents. These include: Certificates, limited permits, compliance agreements, records of sales and shipments, and labels.

We are soliciting comments from the public (as well as affected agencies) concerning our information collection

and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, 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 information collection on those who are to respond (such as 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).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.1441359 hours per response.

*Respondents:* Nursery owners and operators.

*Estimated annual number of respondents:* 621.

*Estimated annual number of responses per respondent:* 21.2270.

*Estimated annual number of responses:* 13,182.

*Estimated total annual burden on respondents:* 1,900 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

## E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this interim rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

## List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

## PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 issued under Sec. 204, Title II, Public Law 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 issued under Sec. 203, Title II, Public Law 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

### § 301.75–1 [Amended]

■ 2. In § 301.75–1, the definition of *compliance agreement* is amended by removing the words "growing or handling" and adding the words "growing, maintaining, processing, handling, packing, or moving" in their place.

■ 3. Section 301.75–6 is amended as follows:

■ a. By revising paragraph (a) to read as set forth below.

■ b. By redesignating paragraph (c) as paragraph (d).

■ c. By adding a new paragraph (c) and a new footnote 1 to read as set forth below.

■ d. In newly redesignated paragraph (d), by adding the words "or paragraph (c)" after the words "paragraph (b)".

■ e. By adding the OMB citation "(Approved by the Office of Management and Budget under control number 0579–0369)" at the end of the section.

### § 301.75–6 Interstate movement of regulated nursery stock from a quarantined area.

(a) Regulated nursery stock may not be moved interstate from a quarantined area unless such movement is authorized in this section.

* * * * *

(c) Regulated nursery stock produced in a nursery within a quarantined area may be moved interstate to any area within the United States, if all of the following conditions are met:

(1) The nursery in which the nursery stock is produced has entered into a compliance agreement in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in a PPQ protocol document. The protocol document will be provided to the person at the time he or she enters into the compliance agreement.[1] The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the dissemination of citrus canker under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will also specify that APHIS may amend the agreement.

(2) An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.

(3) The nursery stock is accompanied by a certificate issued in accordance with § 301.75–12.

(4) The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container.

(5) A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

* * * * *

### § 301.75–12 [Amended]

■ 4. In § 301.75–12, paragraph (b)(1) introductory text is amended by adding the words "or in § 301.75–6(c)(4) through (c)(5) for any regulated nursery stock," after the words "for kumquat plants".

### § 301.75–13 [Amended]

■ 5. In § 301.75–13, paragraph (b) is amended by adding the words ", or any term or condition of the compliance agreement itself" after the words "with this subpart".

### § 301.76–4 [Amended]

■ 6. In § 301.76–4, paragraph (c) is amended by removing the words "for immediate export under a limited permit in accordance with § 301.76–7(c)" and adding the words "in accordance with § 301.76–7" in their place.

### §§ 301.76–8 and 301.76–9 [Amended]

■ 7. Footnote 4 in § 301.76–8 and footnote 5 in § 301.76–9 are redesignated as footnotes 6 and 7, respectively.

■ 8. Section 301.76–6 is amended as follows:

■ a. By revising the section heading to read as set forth below.

■ b. By redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively.

■ c. By revising newly redesignated paragraph (c) to read as set forth below

■ d. In newly redesignated paragraph (d), by redesignating footnote 3 as footnote 4.

[1] The protocol document is also available on the Internet at *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml* and may be obtained from local Plant Protection and Quarantine offices, which are listed in telephone directories.

■ e. By adding a new paragraph (b) and a new footnote 3 to read as set forth below.

■ f. By adding the OMB citation "(Approved by the Office of Management and Budget under control number 0579–0369)" at the end of the section.

**§ 301.76–6 Additional conditions for issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for Asian citrus psyllid, but not for citrus greening.**

* * * * *

(b) *Additional conditions for issuance of a certificate; regulated nursery stock.* In addition to the general conditions for issuance of a certificate contained in § 301.76–5(a), an inspector or person operating under a compliance agreement may issue a certificate for interstate movement of regulated nursery stock to any State if:

(1) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in a PPQ protocol document. The protocol document will be provided to the person at the time he or she enters into the compliance agreement.[3] The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the spread of Asian citrus psyllid under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will also specify that APHIS may amend the agreement.

(2) An inspector determines that the nursery has adhered to all terms and conditions of the compliance agreement.

(3) The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container.

(4) A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

(c) *Additional conditions for issuance of a limited permit; regulated nursery stock.* (1) *Nursery stock that will not be moved through American Samoa, Arizona, California, Florida, Guam, Hawaii, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.* In addition to the general conditions for the issuance of a limited permit contained in § 301.76–5(b), an inspector or person operating under a compliance agreement, other than the operator of the nursery in which the nursery stock was produced and his or her employees, may issue a limited permit for the interstate movement of regulated nursery stock through areas of the United States other than American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands, and to areas of the United States other than Northern Mariana Islands and those portions of Arizona and California that are not quarantined due to the presence of Asian citrus psyllid or citrus greening, if:

(i) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in accordance with § 301.76–8;

(ii) All citrus nursery stock at the nursery has been inspected by an inspector every 30 days, and any findings of Asian citrus psyllid during an inspection have been reported to APHIS immediately;

(iii) The nursery stock is treated for Asian citrus psyllid with an APHIS-approved soil drench or in-ground granular application no more than 90 days and no fewer than 30 days before shipment, followed by an APHIS-approved foliar spray no more than 10 days before shipment. All treatments must be applied according to their EPA label, including directions on application, restrictions on place of application and other restrictions, and precautions, and including statements pertaining to Worker Protection Standards;

(iv) The nursery stock is affixed prior to movement with a plastic or metal tag on which the statement "Limited permit: USDA–APHIS–PPQ. Not for distribution in Northern Mariana Islands or those portions of AZ and CA not quarantined due to the presence of Asian citrus psyllid or citrus greening" is prominently and legibly displayed on the obverse, and adequate information as determined by APHIS regarding the identity of the nursery stock and its source of production to conduct traceback to the nursery in which the nursery stock was produced is prominently and legibly printed on the reverse. If the nursery stock is destined for movement or sale in boxes or containers, the statement and the identifying information may be printed on the box or container, or printed on a label permanently affixed to the box or container, provided that, in either case, the statement and the identifying information are prominently and legibly displayed;

(v) A copy of the limited permit will be attached to the consignee's copy of the accompanying waybill; and

(vi) The nursery stock is shipped in accordance with the conditions specified on the limited permit to the destination specified on the permit.

(2) *Nursery stock that will be moved through American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands.* In addition to the general conditions for the issuance of a limited permit contained in § 301.76–5(b), an inspector or person operating under a compliance agreement may issue a permit for the interstate movement of regulated nursery stock through American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, or the U.S. Virgin Islands, and to areas of the United States other than Northern Mariana Islands or those portions of Arizona and California that are not quarantined due to the presence of Asian citrus psyllid or citrus greening, if:

(i) All conditions for movement of regulated nursery stock in paragraphs (c)(1)(i) through (c)(1)(vi) of this section are fulfilled;

(ii) The nursery stock is inspected by an inspector on the date of shipment and found free of Asian citrus psyllid;

(iii) The nursery stock is completely enclosed in a container sealed with an agricultural seal and is moved interstate in that container;

(iv) The container prominently and legibly displays the statement and identifying information specified in paragraph (c)(1)(iv) of this section;

(v) The agricultural seal remains intact throughout movement to the destination specified on the limited permit; and

(vi) The agricultural seal is removed at the destination specified on the limited permit by an inspector.

* * * * *

■ 9. Section 301.76–7 is amended as follows:

■ a. By redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively.

■ b. By adding a new paragraph (a) and a new footnote 5 to read as set forth below.

■ c. In newly redesignated paragraph (c), by adding the words "or (b)" after the words " paragraph (a)".

[3] The protocol document is also available on the Internet at *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml* and may be obtained from local Plant Protection and Quarantine offices, which are listed in telephone directories.

■ d. By adding the OMB citation "(Approved by the Office of Management and Budget under control number 0579–0369)" at the end of the section.

**§ 301.76–7 Additional conditions for issuance of certificates and limited permits for regulated articles moved interstate from areas quarantined for citrus greening.**

(a) *Additional conditions for the issuance of a certificate; regulated nursery stock produced within a nursery located in the quarantined area.* In addition to the general conditions for issuance of a certificate contained in § 301.76–5(a), an inspector or person operating under a compliance agreement may issue a certificate for interstate movement of regulated nursery stock to any State if all of the following conditions are met:

(1) The nursery in which the nursery stock is produced has entered into a compliance agreement with APHIS in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in a PPQ protocol document. The protocol document will be provided to the person at the time he or she enters into the compliance agreement.[5] The compliance agreement may also specify additional conditions determined by APHIS to be necessary in order to prevent the dissemination of citrus greening under which the nursery stock must be grown, maintained, and shipped in order to obtain a certificate for its movement. The compliance agreement will also specify that APHIS may amend the agreement.

(2) An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.

(3) The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved interstate in that container.

(4) A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

* * * * *

**§ 301.76–8 [Amended]**

■ 10. Section 301.76–8 is amended as follows:

■ a. In paragraph (b), by adding the words ", or any term or condition of the compliance agreement itself" after the words "with this subpart".

■ b. In the OMB citation at the end of the section, by removing the words "number 0579–0363" and adding the words "numbers 0579–0363 and 0579–0369" in their place.

**§ 301.76–9 [Amended]**

■ 11. Section 301.76–9 is amended by removing the words "All regulated nursery stock treated with soil drenches or in-ground granular applications and foliar sprays prior to interstate movement from an area quarantined only for Asian citrus psyllid, but not for citrus greening, as well as all" and adding the word "All" in their place.

Done in Washington, DC, this 21st day of April 2011.

**Edward M. Avalos,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 2011–10092 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–34–P

[5] The protocol document is also available on the Internet at *http://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/index.shtml* and may be obtained from local Plant Protection and Quarantine offices, which are listed in telephone directories.

---

## FARM CREDIT ADMINISTRATION

### 12 CFR Parts 651 and 652

**RIN 3052–AC51**

## Federal Agricultural Mortgage Corporation Governance and Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Risk-Based Capital Requirements

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** The Farm Credit Administration (FCA, Agency, us, or we) issues this final rule amending our regulations on the Risk-Based Capital Stress Test (RBCST or model) used by the Federal Agricultural Mortgage Corporation (Farmer Mac). This rulemaking updates the model to ensure that it continues to appropriately reflect risk in a manner consistent with statutory requirements for calculating Farmer Mac's regulatory minimum capital level under a risk-based capital stress test. This rule updates the model to estimate the capital requirements associated with Farmer Mac's statutory authority to finance rural utility loans and to revise the treatment of certain secured general obligations held by Farmer Mac as program investments. This rule also revises the treatment of counterparty risk on non-program investments in the model by adjusting the haircuts applied to those investments to keep the model internally consistent with revisions made to stressed historical corporate bond default and recovery rates.

**DATES:** *Effective date:* This regulation will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

*Compliance date:* Compliance with the changes to the model must be achieved by the first day of the fiscal quarter following the effective date of the rule. All other provisions require compliance on the effective date of this rule.

**FOR FURTHER INFORMATION CONTACT:**

Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703) 883–4434;

or

Laura McFarland, Senior Counsel, Office of the General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

**SUPPLEMENTARY INFORMATION:**

### I. Objective

The objective of this final rule is to ensure that the RBCST for Farmer Mac continues to determine regulatory capital requirements in a manner consistent with statutory requirements.

### II. Background

The FCA is an independent agency in the executive branch of the Federal Government that, in part, serves as the safety and soundness regulator of Farmer Mac. The FCA regulates Farmer Mac through the Office of Secondary Market Oversight (OSMO). Farmer Mac is a stockholder-owned instrumentality of the United States, chartered by Congress to establish a secondary market for agricultural real estate, rural housing mortgage loans, and rural utilities loans. Farmer Mac also facilitates the capital markets funding for USDA-guaranteed farm program and rural development loans. Section 5406 of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill)[1] amended the definition of "qualified loan" in Title VIII of the Farm Credit Act of 1971, as amended, (Act)[2] to include rural utility loans. This change gave Farmer Mac the authority to purchase and guarantee securities backed by loans to rural electric and telephone utility cooperatives as program business. The

[1] Public Law 110–246, 122 Stat. 1651 (June 18, 2008) (repealing and replacing Pub. L. 110–234).

[2] Public Law 92 181, 85 Stat. 583 (December 10, 1971).

2008 Farm Bill further directed FCA to estimate the credit risk on the portfolio covered by this new authority at a rate of default and severity reasonably related to the risks in rural electric and telephone facility loans. The existing RBCST (Version 3.0) for Farmer Mac is contained in part 652, subpart B, and is used to determine the minimum level of regulatory capital Farmer Mac must hold to maintain positive capital during a 10-year period, as characterized by stressful credit and interest rate conditions. Version 3.0 of the RBCST was developed according to the provisions of section 8.32 of the Act before Farmer Mac was given rural utility authority and thus lacks a component to directly recognize the credit risk on such loans.[3] The updated version of the RBCST will be identified as Version 4.0.

On January 22, 2010, we published a proposed rule (75 FR 3647) to enhance the RBCST for Farmer Mac and to add a component addressing Farmer Mac's recently acquired authority to purchase and guarantee securities backed by loans to rural electric and telephone utility cooperatives. The comment period closed on April 22, 2010.[4] This rulemaking finalizes policies proposed prior to the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).[5] Section 939A of the Dodd-Frank Act requires federal agencies to review all regulatory references to Nationally Recognized Statistical Ratings Organization (NRSRO) credit ratings by July 21, 2011, and, as a result of this review, to remove those references. While this rule maintains existing reliance on NRSRO credit ratings, the Agency intends to begin a rulemaking initiative immediately following this one to address the requirements of the Dodd-Frank Act.

## III. Comments and Our Response

We received several comments on the proposed rule from Farmer Mac and one comment letter from the Farm Credit Council (FCC), acting for its membership and each of the five Farm Credit banks. The FCC expressed support for using a more conservative approach to loss rate estimation in the AgVantage portfolio. It also noted its belief that capital standards for Farmer Mac should be equivalent to those of Farm Credit System (FCS or System) lenders. The FCC was also generally supportive of the proposed characterization of credit risk in the rural utility portfolio, but noted that the approach requires vigilant oversight of Farmer Mac's guarantee fee-pricing procedures.

While we appreciate the FCC's comment, the Act provides for a different treatment of capital than that of the other System institutions. As such, the FCC's suggestion to make the capital standards equivalent to those of other FCS lenders is outside the scope of this rulemaking. Farmer Mac submitted comments on three aspects of the proposed rule—the method of characterizing credit losses on rural utility loans, the stress factor applied to the general obligation adjustment (GOA) to estimated losses in the AgVantage portfolio, and the concentration risk adjustment to the GOA factors. Farmer Mac stated that the proposed method of characterizing losses in the rural utility loans is not consistent across different market environments because it was too high relative to both the historical loss experience in that sector as well as levels that could be reasonably applied to agricultural mortgages. Farmer Mac also commented that the multiplier selected to stress GOA factors was too high, and the concentration risk adjustment to the GOA factors was unwarranted and duplicative to the use of credit ratings in the base GOA factors. Farmer Mac asked that the concentration risk be reversed in its impact to reflect a reduction in Farmer Mac's risk exposure in light of the counterparty's relative portfolio diversification.

We discuss the comments specific to our proposed rule and our responses below. For purposes of responding to the comments made regarding GOA factors, we will be using the following terms to distinguish between the existing "base GOA" factors to refer to those set forth in Version 3.0, which are based solely on historical corporate bond default and recovery rates, and "stressed GOA" factors to refer Version 4.0 where base GOA factors are increased by a multiple of 3. Those areas of the proposed rule not receiving comment are finalized as proposed unless otherwise discussed in this preamble.

### *A. Credit Loss Estimation on Rural Utility Loans [§§ 652.50 and 652.65(b); Appendix A to Part 652]*

#### 1. Guarantee Fee

We proposed amending § 652.50 by adding a definition for guarantee fees charged on rural utility loans to distinguish treatment of these fees from those assessed against all other loans guaranteed by Farmer Mac. We explained "rural utility guarantee fee," as it pertains to funded volume, means the gross spread over cost of funds, not a subset of that spread. Farmer Mac requested that we clarify whether or not the definition of "rural utility guarantee fee" is meant to reflect a subset of the term "pricing spread."

We apply the term "rural utility guarantee fee" as a standalone term and not as a subset of pricing spread, and therefore, no component of the pricing spread should be netted. The rule defines "rural utility guarantee fee" as the actual guarantee fee charged for off-balance sheet volume and the earnings spread over Farmer Mac's funding costs for on-balance sheet volume on rural utility loans.[6] As explained in the proposed rulemaking, we use the phrase "earnings spread" in the guarantee fee definition to represent the incoming cashflow rate minus Farmer Mac's total funding rate associated with that volume. We expect Farmer Mac to maintain records of these spreads when they are established for each transaction. We do not consider this an overly burdensome expectation given Farmer Mac's current practice of documenting such approvals of such spreads. Thus, the guarantee fee is the gross spread over cost of funds, not a subset of that spread. We are finalizing the definition as proposed. As a conforming technical change, we finalize amendments to sections 1.0.a., 4.1.b., 4.2.b.(2), and 4.2.b.(3) of the model in Appendix A of part 652 to add rural utility guarantee fees.

#### 2. Credit Risk

We proposed amending the model in Appendix A of part 652 to include rural utility program volume by using a stylized approach to characterizing credit risk for rural utility program volume by multiplying the dollar-weighted average rural utility guarantee fee by a factor of two to characterize stressed annual loss rates.[7] We also proposed clarifying the applicability of individual sections of the model to the

[3] FCA currently treats Farmer Mac's portfolio of investments in rural utility loans as non-program investments.

[4] 75 FR 13682 (March 23, 2010).

[5] Public Law 111–203, 124 Stat. 1376, (H.R. 4173), July 21, 2010.

[6] For purposes of the mechanics within the spreadsheets of RBCST Version 4.0, on-balance sheet volume will, if necessary, be divided into those with AgVantage Plus-type structures and those that are outright loan purchases similar in structure to Farmer Mac's cash window for agricultural mortgages.

[7] In the proposed rule, in this context, we used the phrase "average annual loss rates." We believe the phrase "stressed annual loss rates" is clearer. What we intend to convey is that while agricultural lifetime loss rates are calculated by the model and then distributed on a front-loaded basis, we characterize rural utility loss rates as equal annual loss rates, or what could be referred to as average loss rates over a period of worst case stress.

rural utility portfolio and adding new sections 2.6, 4.1.e., and 4.3.e. to calculate losses for rural utility loans.

Farmer Mac objected to the proposed approach on the grounds that it results in projected stressed credit losses on rural utility loans that are inconsistent across different market environments and exceed both the historical experience in the rural utility sector and levels that could be reasonably applied to agricultural mortgages. Farmer Mac explained that the stressed credit loss characterizations on rural utility loans will be inconsistent across different market environments because it would be subject to inaccuracy due to potential volatility in the pricing by Farmer Mac of similar exposures under varying market conditions through time. In other words, investor risk tolerances vary with changes in perceived levels of overall risk in the market, and such changes could enable Farmer Mac to charge higher rates on rural utility loans despite no change in the underlying fundamentals of the sector or the specific loans it guarantees. We disagree with the suggestion that the stressed credit loss characterizations on rural utility loans will be inconsistent across different market environments. We used a multiple of the Farmer Mac rural utility guarantee fee as a proxy for stressed loss rates because the data on historical losses are not suitable for the development of a more statistically reliable estimate. We elected not to decompose the guarantee fee and earnings spreads into their component parts (including required versus "excess" spread) as that approach would have: (1) Required significant assumptions regarding what portion might be attributable to Farmer Mac's perception of market conditions versus credit risk; and (2) added a level of calculation complexity that is disproportionate to the coarse level of precision achievable given the data limitations. In other words, we take the view that the market clearing price reflects the market consensus of risk at a point in time.

Farmer Mac asserts that the proposed approach is also incongruous because it characterizes losses of on- and off-balance sheet rural utility volume identically, though the rural utility guarantee fee would be inherently different. Farmer Mac suggests that the earnings spread on on-balance sheet volume might be larger than the guarantee fee on off-balance sheet volume. Farmer Mac clarified this comment by explaining that the return on equity component of the earnings spread would be larger for on-balance sheet volume "[i]f the return on equity pricing is determined using current statutory minimum capital requirements (or any other capital requirements set using a differential approach to capital allocation)." The comment references the statutory minimum requirements for on-balance sheet exposure (2.75 percent) and off-balance sheet exposure (0.75 percent) of outstanding principal. We understand the comment to indicate that program investment decisions, *i.e.,* capital allocations, might be made on the basis of some required equity return margin over the associated statutory minimum capital requirements rather than on the basis of the risk and expense characteristics of the investments. We disagree with this premise. We are aware of no reason to base return on equity requirements on fixed statutory minimum capital requirements or to use such minimum capital requirements as a proxy for capital allocated to specific program investments. We reject the suggestion that such fixed minimums could be appropriately used as a basis to justify differential return on equity requirements on investments that have otherwise exactly the same risk and expense characteristics.

Farmer Mac also commented that a multiple of two times the rural utility guarantee fee would not be consistent with FCA's stated position that the agriculture sector is generally more risky than the rural utility sector. Farmer Mac used a hypothetical example to demonstrate its comment. In this example, the cumulative annual loss rate characterization on rural utility volume over the 10 years of the modeling horizon slightly exceeded the estimated lifetime loss rate on newly originated, agricultural loans underwritten according to Farmer Mac's minimum standards. Farmer Mac modified the example to create a situation where the two sets of loans were equally seasoned and concluded that the cumulative loss rate for electrical loans in such cases would always exceed that of the agricultural real estate loans. Farmer Mac explained that the example demonstrated that the rule's approach would not be consistent with the statute's authorizing language requiring modeled loss rates to be "reasonably related to risks" in rural electric and telephone facility loans. Farmer Mac instead suggests that cumulative loss rates should, at the very least, be no greater than those for comparably sized agricultural mortgage loans. While Farmer Mac noted that the multiplier of two could be reduced, it instead asked FCA to adopt a credit risk estimate supported by historical loss and recovery rate trends.

We disagree with the commenter's use of FCA Bookletter BL–053, "Revised Regulatory Capital Treatment for Certain Electric Cooperative Assets," to support the contention that the proposed treatment is inconsistent with the bookletter's conclusion that the electric cooperative sector has a lower risk profile than the agricultural sector.[8] While under normal conditions an average dollar of exposure to a rural electric cooperative is viewed as a lower credit risk than an average dollar of agricultural real estate mortgage exposure, the purpose of the RBCST is to represent a worst-case loss scenario for program-related assets. We view the concept of "worst case" in the rural utility cooperative sector as fundamentally different from the agriculture sector. The rule's approach inherently reflects our expectation that worst-case losses in the rural utility sector will occur far less frequently than worst-case losses in the agriculture sector—but when they occur, can be far more severe. While the average annual loss rate over the long term may be viewed as likely to be lower in the rural utility sector due to the infrequent occurrence of loss events, in a scenario where worst-case losses do occur, they will involve much greater loss rates than worst-case losses in agriculture. Further, the relationship between the two cumulative 10-year loss rates (agricultural versus rural utility) is not instructive, as the sector with the higher cumulative rate will vary depending on rural utility guarantee fee rates and the credit risk characteristics of the agriculture portfolio at any given time. Thus, in attempting to characterize both sectors' worst-case scenarios in the RBCST over a 10-year modeling horizon, having 10 years of loss rates that do not always sum to lower cumulative rate in the rural utility portfolio is not inconsistent with the general tenet that the electric cooperative sector typically has a lower risk profile.

Notwithstanding our position on this comment, using the suggested approach, it would be more appropriate to compare cumulative loss rates only to the modeling year at which the model indicates capital would approach its limit of zero (the zero-year) because losses recognized by the model in subsequent modeling years do not impact the calculation of the minimum capital requirement. Expanding on

[8] While BL–053 pertains to Farm Credit System banks and associations, and not to Farmer Mac, we believe the general tenets set forth in it apply to those same certain loan types in Farmer Mac's portfolio.

Farmer Mac's example, if the zero-year occurred at year three, cumulative losses over those 3 years in agriculture portfolio would be 9.87 percent versus 4.2 percent in the rural utility portfolio. Seasoning could further affect the relative impacts of credit risk in the model. Given our stated view of the fundamentally different concepts of "worst-case" in the two sectors, this fact does not contradict the Agency's stated position.

Farmer Mac's comment goes on to suggest various approaches to achieve the "result" recommended (that cumulative losses projected in the RBCST for rural utilities loans should be, on a relative basis, no greater than those for comparably sized agricultural mortgage loans). Farmer Mac notes that this result could be achieved by reducing the multiplier of two, but suggests instead that we abandon the proposed approach of applying a multiplier to Farmer Mac pricing factors in favor of an approach that references historical loss trends. In the proposed rule's preamble, we discussed in detail the insufficiency of historical lost trend data, as well as other alternatives to the proposed approach that were considered and why they were rejected.

Farmer Mac also stated that the proposed approach was inconsistent with historical loss trends. We disagree because the comment is based on the premise that appropriate historical loss trend information is available. As discussed in the proposed rulemaking, we determined that a data set suitable to build a reliable default probability loss function is not available due to the fact that historical losses in the electric cooperative sub-sector of the utilities industry have been extremely rare and dissimilar.[9] We also note that historical instances of default appear largely unrelated to specific underwriting decisions. Further, even among the few historical instances of non-performing loans in the data we obtained, restructured credit defaults have in many instances become more profitable than the original loan in terms of interest income, while others were never fully resolved despite exceptionally long periods of time since initial default. For those reasons, an empirical frequency-based analog for estimating credit risk, as was used to arrive at the model's approach to estimating agricultural loan risks, was not feasible for rural utilities. Instead, the rule characterizes credit risk on rural utility loans using the stylized approach of multiplying the dollar-weighted average rural utility guarantee fee by a factor of two to characterize stressed annual loss rates.

Finally, Farmer Mac commented that the proposed approach to characterizing credit losses in the rural utility portfolio is inconsistent with the Act. We disagree with this assessment because the Act does not require us to use any particular statistical methodology. The Act, at section 8.32(a)(1)(B), requires us to estimate credit loss risk "at a rate of default and severity reasonably related to risks in electric and telephone facility loans * * * as determined by the Director [of OSMO]." The proposed rulemaking explained in some detail the reason behind selecting the method of identifying rural utilities credit loss risk, and Farmer Mac has offered no evidence to demonstrate that our method does not reasonably relate to actual risks in the rural utilities sector.

We selected a method that relies directly on the notion that the assessment of relative risk would be reflected in differences in priced guarantee fees charged by Farmer Mac. These fees represent Farmer Mac's estimate of likely long-term average annual losses on an investment, in addition to fee loads to cover operating costs and return-on-equity requirements. We selected the combination of the total earnings spread with a lower stress multiple because the total spread also represents agreement on the value of the transaction between at least two parties: Farmer Mac and its counterparty (*i.e.*, a market clearing price).

For these reasons, we finalize this section and the conforming changes as proposed to reflect the treatment of the rural utility authority. As we gain more experience and data in this sector, the Agency may revisit this approach.

*B. Modification of the Treatment of Loans Backed by an Obligation of the Counterparty and Loans for Which Pledged Loan Collateral Volume Exceeds Farmer Mac-Guaranteed Volume [§§ 652.50 and 652.65(d); Appendix A to Part 652]*

We are amending sections 2.4.b.3, 2.4.b.4, 4.1.f., and 4.2.b. of the model in Appendix A of part 652 to increase the GOA factors, address counterparty concentration risks, and ensure AgVantage Plus volume maturities are recognized in the model.

1. GOA Factors—Treatment of Loan Volume

We proposed revising the GOA factors by stressing the historical corporate bond loss rates to levels intended to represent stressed conditions instead of average conditions. We accomplish this in the model by modifying the GOA factors through the application of increases (or "haircuts") to the estimated historical loss rates by whole-letter credit rating category using a multiple of three.

Farmer Mac commented that our selection of three as the multiplier appeared to be much too high based on data in reports issued by Moody's Investor Services. Farmer Mac explained that the multiple and its implied assumption of a coefficient of variation (CV) equal to one lacked empirical support or theoretical justification. Farmer Mac askedthat the implied underlying CV ratio be much lower than one and that separate multipliers, scaled by whole-letter credit rating, be applied based on the historical variability over time of each whole-letter credit rating. Farmer Mac based this request on Moody's data on the standard deviations for 10-year cumulative default rates. Farmer Mac recommends these data be used to derive empirically based multiples of GOA factors to represent stress on issuer counterparties.

We disagree with the recommendation as we believe it to be based on a mistaken reliance on CVs of average default rates within credit rating categories over time, rather than cross-sectional CVs of the individual issuer defaults within each period.[10] The long-term average rate of the annual average default rate combined with the standard deviation of those average default rates do not convey a reasonable measure of "worst-case" default risk, but rather, as identified in the Moody's report, are primarily related to sample size used in construction of the estimated average loss rates. We believe our approach places the adjusted corporate bond loss estimate in a range that provides a meaningfully stressful representation, given limited data, and reflects generally accepted statistical principles and relationships. We selected the multiplier of three on the basis that it was a reasonable policy position given that the most accurate alternative to the selected multiple using statistical theory to establish the limits on probability from the sample variance (*i.e.*, Chebychev's theorem as discussed in

[9] In evaluating the suitability of empirical data sources, we examined historical loan performance data of the U.S. Department of Agriculture's (USDA) loan programs and interviewed market participants including the National Rural Utility Cooperative Financing Corporation, CoBank, and USDA's Rural Utility Service.

[10] In the proposed rule, we used a CV of one in an example to demonstrate a point and not as a factual premise of this rulemaking.

the proposed rule) would have yielded a proposed multiple many times higher than three. We continue to believe that use of the limit of probability established through limited sample information to require too extreme a multiple, and instead maintain our more moderate treatment through the use of our proposed value of three.

We further disagree that one can accurately infer individual variability directly from the variance of a set of pooled experiences (aggregate annual default rates) through time. The primary purpose of the cited report, as explained by Moody's in the report, appears fundamentally different from its use in the comment letter. Moody's report explicitly states its purpose is to present confidence intervals around historical average cumulative default rates and, as warning against interpretation as a cross-sectional variance, the report indicates that standard errors around estimated long-run average default rates "should not be confused with the much greater bands of uncertainty associated with the expected performance of particular cohorts of issuers formed at specific points in time (cross section)." [11]

We finalize this provision as proposed.

2. GOA Factors—Concentration Ratios

We proposed modifying GOA factors to recognize the risk associated with a counterparty's (also referred to as the AgVantage Plus issuer) loan portfolio concentration in the industry sector used in an AgVantage Plus issuance. We also proposed modifying section 2.4.b.3.A. of Appendix A to allow the Director of OSMO to make final determinations of concentration ratios on a case-by-case basis by using publicly reported data on counterparty portfolios, non-public data submitted and certified by Farmer Mac as part of its RBCST submissions, and generally recognizing two rural utility sectors—rural electric cooperatives and rural telephone cooperatives.

Farmer Mac objected to the GOA modifications because it believes the change creates redundancy in two ways: (1) The level of an issuer's loan portfolio concentration is already captured in the NRSRO's credit rating and therefore already captured in the level of the base GOA factor (prior to the proposed concentration risk adjustment), and (2) base GOA factors already capture stress associated with "tail" events according to the newly proposed stressed corporate bond loss-rate multiple. Farmer Mac suggests instead that the new GOA factors be adjusted to reflect a reduction in risk due to the level of diversification of the issuer, not an increase in risk due to the issuer's portfolio concentration.

Farmer Mac further commented that the proposed methodology is vague and might oversimplify industry concentration. Farmer Mac asked that at least two sub-sectors of rural electric utilities be recognized in the concentration adjustment: Distribution cooperatives and generation and transmission (G&T) cooperatives. Farmer Mac explained that the magnitude of the concentration risk-adjusted GOA (CRAGOA) factors are driven more by the concentration risk adjustment than by the stressed historical corporate bond default and recovery rates (stressed GOA factors). Farmer Mac states that this is counterintuitive to the concept of the GOA because it associates more of the final effect of the CRAGOA adjustment with the issuer's portfolio structure than is warranted. Farmer Mac illustrates this point using the example of a sovereign issuer without credit risk. In this scenario, the CRAGOA factor would equal the concentration ratio, due to the mathematical relationship between the stressed GOA (pre-concentration risk adjustment) and the CRAGOA (*i.e.*, 1 − (1–GOA) (1-concentration ratio), where GOA = 0)). If that concentration ratio were one, then no risk-mitigation would be recognized in the general obligation of the sovereign issuer even if the issuer were rated AAA. Farmer Mac views this as placing an overly heavy emphasis on the issuer's portfolio concentration.

Farmer Mac contends that our approach is inherently deficient because, in the example, the percentage increase in the GOA factor after adjustment for concentration risk is much greater for the AAA issuer (1,800 percent) than it is for the BBB issuer (300 percent), though the magnitudes of change stated in percentage terms are actually artifacts of the scale of remaining credit risk within each whole-letter rating category, as we discuss in depth below. Farmer Mac commented that the concentration risk adjustment should, if it has any impact at all, reduce risk rather than increase risk. Farmer Mac suggested replacing the mathematical relationship we had proposed with a multiplicative relationship—*i.e.,* because the concentration ratio will frequently be less than one, that the stressed GOA factor should be reduced for any level of issuer portfolio diversification, rather than increased for any level of portfolio concentration. Farmer Mac suggests the following formula: CRAGOA = stressed GOA * CR.

We appreciate Farmer Mac's concern that the two sub-sectors of rural electric utilities be recognized. However, we believe the rule provides for recognition of those sub-sectors and others on a case-by-case basis. We recognize Farmer Mac's authority to finance four industry sectors: Agriculture (including farms and agribusiness), rural electric distribution cooperatives, rural electric G&T cooperatives, and rural telephone cooperatives. The modifications to section 2.4.b.3.A. of Appendix A will allow the Director of OSMO (Director) to make final determinations of concentration ratios, including recognizing two rural utility sectors—rural electric cooperatives and rural telephone cooperatives. However, we disagree that the GOA factors contain redundancy. While NRSRO's may consider the extent of diversification of assets generally in their credit ratings, they do not do so in a worst-case context. Nor would the NRSRO's consideration of diversification always specifically include the impact of the issuer's relative exposure to industry sectors that Farmer Mac is authorized to finance. Agriculture and rural utility cooperative exposures are often combined with other sector exposures in publicly reported documents—including sectors that Farmer Mac is not authorized to finance. While it's possible that an NRSRO might require the issuer to disaggregate that information, its rating determination would not specifically focus on the degree of exposure to the Farmer Mac-authorized sectors. Hence, credit ratings do not provide the level of granularity of information needed. Nor does an NRSRO rating necessarily consider the issuer's exposure to the specific industry sector involved in the specific AgVantage Plus pool being modeled as this approach does. We do not believe that consideration of these specific risk components to the modeling of AgVantage Plus volume is sufficiently reflected in credit ratings to use them as suggested. For example, an NRSRO rating on a 100-percent concentrated issuer (*e.g.,* a single-sector lender) says little or nothing about its ability to guarantee the credit on loan volume that it would pledge to Farmer Mac. In a worst-case loss scenario in that single sector, the issuer's ability to liquidate its unpledged assets to fulfill its general obligation to Farmer Mac at a price near the outstanding principal would be

[11] Cantor, R; Hamilton, D.; Tennant, J. "Confidence Intervals for Corporate Default Rates", Moody's Investor Services, Global Credit Research: Special Comment, April 2007; p. 1–2.

severely reduced. This rule effectively evaluates the degree of that reduced ability at 100 percent. In other words, we do not believe it to be plausible that an issuer whose unpledged assets are experiencing worst-case losses would be able to continue as a going concern if it were forced to liquidate a significant volume of those unpledged, but highly impaired assets in order to fulfill its general obligation to Farmer Mac.

Farmer Mac asked that we define the sectors but did not suggest any definition with the request. We decline to do so because we believe the general understanding of what these sectors include is sufficient for setting a parameter but flexible enough to allow the Director to use his discretion in a manner appropriate to each case presented. In addition, we do not view the fact that the concentration risk adjustment has a significant impact on the CRAGOA as counterintuitive. We believe it is logically consistent to view the concentration ratio as potentially a more significant driver of the value of the issuer's general obligation than the estimated corporate bond loss rate. We view the concentration risk adjustment as a critical component of the CRAGOA because it reflects the ability of the specific counterparty to augment the more generalized component derived from stressed corporate bond default rates by whole-letter credit rating.

Farmer Mac's comment included an example of a sovereign (credit-risk-free) issuer and AgVantage Plus counterparty. We believe this example is too extreme to be applicable even for illustrative purposes. As a risk-free issuer, the hypothetical sovereign issuer in the example would be guaranteeing the credit risk on the subject loan volume, thus making the transaction more akin to the Farmer Mac II program than to the AgVantage Plus product.[12] The RBCST already contains an approach on this type of transaction, *i.e.,* it does not recognize credit risk and therefore would it not be appropriate to model this volume using the treatment for AgVantage Plus. Such transactions would result in a gross loss estimate of zero to which the CRAGOA (equal to the concentration ratio as previously discussed) would be applied for a net loss estimate of zero. However, to the more general point outside of this extreme case, *i.e.,* a single-sector AAA issuer, we believe it reasonably and logically consistent for the single sector characteristic to weigh most heavily in the CRAGOA. The discussion and tables below further describe these relationships.

Farmer Mac argued that our approach is inherently deficient due to the fact that the CRAGOA factor increases (relative to the stressed GOA) so much more for the AAA issuer (18 times) than it does for the BBB issuer (three times). We disagree and use the following tables to illustrate the ultimate effects of the CRA across a set of cases that we believe provide a more meaningful context for interpretation of the effects of its application.

The table is organized in three panels across base Pre-GOA probability of default rates (PD) of 1, 3, and 6 percent (*i.e.,* examples of loss rates as would be determined by the RBCST credit loss module or from the rural utility guarantee fee). The stressed GOA (GOA Pre-CRA) is applied to each case and a pre-concentration risk adjusted loss rate provided in column D (Pre-CRA loss rate). The first table assumes a 25-percent concentration ratio (CR) and provides associated final loss rates in column F after the CRA. Column G reproduces the multiples of change cited by Farmer Mac in its comment.

| A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|
| | Pre-GOA PD (percent) | GOA Pre-CRA (percent) | Pre-CRA loss rate (percent) | CR (percent) | Loss rate post-CRAGOA (percent) | = F/D |
| AAA | 1 | 1.41 | 0.0141 | 25 | 0.261 | 18.48 |
| AA | 1 | 3.70 | 0.0370 | 25 | 0.278 | 7.51 |
| A | 1 | 5.13 | 0.0513 | 25 | 0.288 | 5.62 |
| BBB | 1 | 11.48 | 0.1148 | 25 | 0.336 | 2.93 |
| < BBB | 1 | 44.52 | 0.4452 | 25 | 0.584 | 1.31 |
| AAA | 3 | 1.41 | 0.0423 | 25 | 0.782 | 18.48 |
| AA | 3 | 3.70 | 0.1110 | 25 | 0.833 | 7.51 |
| A | 3 | 5.13 | 0.1539 | 25 | 0.865 | 5.62 |
| BBB | 3 | 11.48 | 0.3444 | 25 | 1.008 | 2.93 |
| < BBB | 3 | 44.52 | 1.3356 | 25 | 1.752 | 1.31 |
| AAA | 6 | 1.41 | 0.0846 | 25 | 1.563 | 18.48 |
| AA | 6 | 3.70 | 0.2220 | 25 | 1.667 | 7.51 |
| A | 6 | 5.13 | 0.3078 | 25 | 1.731 | 5.62 |
| BBB | 6 | 11.48 | 0.6888 | 25 | 2.017 | 2.93 |
| < BBB | 6 | 44.52 | 2.6712 | 25 | 3.503 | 1.31 |

As the table indicates, assuming a counterparty concentration ratio of 25 percent and a loss rate estimate of 1 percent before any adjustment for general obligation credit enhancement, the proportional changes are as provided in Farmer Mac's comment letter—the AAA issuer's post-CRAGOA loss rate increases by a factor of 18.48, whereas the BBB issuer's loss rate increases only 2.93 times after considering the concentration risk. We consider the increase differential consistent with the logic that when a structure is backed by a high-quality issuer's general obligation, there is effectively more risk-mitigation value to lose if that issuer happens to be highly concentrated in the same sector as the underlying loans and the magnitude of that loss is appropriate and proportionate to the concentration risk at the issuer. Despite this difference in CRA impact, the loss rate post-CRAGOA for a AAA issuer is still less than half the stressed loss rate applied to a BBB issuer, and this relationship is not

[12] Farmer Mac's program investments in loans that are guaranteed by the USDA as described in section 8.0(9)(B) of the Act, and which are securitized by Farmer Mac, are known as the "Farmer Mac II" program.

affected by the level of the pre-GOA PD (*i.e.,* the 3-percent and 6-percent Pre-GOA PD scenarios reflect the same magnitude of change post-CRAGOA). When there is little credit risk, there is less risk to mitigate with the GOA. However, in the "below-BBB and unrated" cases, the magnitude of the reduction in credit risk is far greater than in the case of the higher rated initial exposures. For example, observe the last two rows in column C with 11.48-percent and 44.52-percent "GOA Pre-CRA" factors. Prior to the CRA, the stressed GOA would have reduced initial PD losses by 88.52 percent (1–0.1148) and 55.48 percent (1–0.4452), respectively. The magnitude of difference among these changes to the initial PD is reduced by the application of the CRA, which is the same for each of them. The percentage reduction in the initial PD post-CRA is 73.94 percent (down 24.65 percentage points) in the AAA case, 66.39 percent (down 22.13 percentage points) and 41.61 percent (down 13.67 percentage points) in the "BBB" and "< BBB" cases, respectively—down 25 percent from the Pre-CRA PD risk mitigation levels. We consider this result consistent with reasonable depictions of final credit exposure relationships.

The next table provides comparable information, but with a concentration ratio of 50 percent rather than 25 percent. As can be seen in the table, a consistent and appropriate proportionality remains as the multiples of change become much larger due to increases in the concentration ratio—that is, the loss rate post-CRA GOA for a AAA issuer is still less than the stressed loss rate applied to a BBB issuer, though by increasingly smaller margins as concentration ratios rise. This is logical and intentional because as the concentration ratio approaches one, risk-mitigation value of the CRAGOA approaches zero for all categories of issuer leaving Pre-GOA PDs unadjusted for the general obligation of the issuer.

| A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|
| | Pre-GOA PD (percent) | GOA Pre-CRA (percent) | Pre-CRA loss rate (percent) | CR (percent) | Loss Rate post-CRA GOA (percent) | = F/D |
| AAA | 1 | 1.41 | 0.0141 | 50 | 0.507 | 35.96 |
| AA | 1 | 3.70 | 0.0370 | 50 | 0.519 | 14.01 |
| A | 1 | 5.13 | 0.0513 | 50 | 0.526 | 10.25 |
| BBB | 1 | 11.48 | 0.1148 | 50 | 0.557 | 4.86 |
| < BBB | 1 | 44.52 | 0.4452 | 50 | 0.723 | 1.62 |
| AAA | 3 | 1.41 | 0.0423 | 50 | 1.521 | 35.96 |
| AA | 3 | 3.70 | 0.1110 | 50 | 1.556 | 14.01 |
| A | 3 | 5.13 | 0.1539 | 50 | 1.577 | 10.25 |
| BBB | 3 | 11.48 | 0.3444 | 50 | 1.672 | 4.86 |
| < BBB | 3 | 44.52 | 1.3356 | 50 | 2.168 | 1.62 |
| AAA | 6 | 1.41 | 0.0846 | 50 | 0.030 | 35.96 |
| AA | 6 | 3.70 | 0.2220 | 50 | 3.111 | 14.01 |
| A | 6 | 5.13 | 0.3078 | 50 | 3.154 | 10.25 |
| BBB | 6 | 11.48 | 0.6888 | 50 | 3.344 | 4.86 |
| < BBB | 6 | 44.52 | 2.6712 | 50 | 4.336 | 1.62 |

Finally, Farmer Mac suggested using the formula: CRAGOA = stressed GOA * CR to recognize increased risk associated with counterparty concentrations. As we previously explained, we intend to recognize the increased risk associated with counterparty concentrations and do not consider Farmer Mac's suggestion to adequately factor the impact of increased concentration on effective credit exposure. The concentration risk adjustment is a critical component of the CRAGOA because it tightens the focus on this key risk characteristic of the specific counterparty to complement the more generalized component derived from stressed corporate bond default rates by whole-letter credit rating—which, we do not believe adequately captures this information.

We finalize as proposed all changes on this subject matter but revise our stated interpretation of the proposed methodology as it is applied to rural electric utility cooperative issuers to recognize two sectors, electric distribution cooperatives and electric generation and transmission cooperatives.

3. Technical Changes

We proposed amending § 652.50 by adding a definition for "AgVantage Plus" to clarify that, while "AgVantage Plus" is a product name used by Farmer Mac, we are applying it throughout this subpart to refer both specifically to AgVantage Plus volume currently in Farmer Mac's portfolio as well as other similarly structured program volume that Farmer Mac might finance in the future under other names. We described "AgVantage Plus" as a program created by Farmer Mac in 2006 to provide guarantees on timely repayment of principal and interest on notes issued by the counterparty. The notes are secured by obligations of issuer, which obligations are, in turn, backed by Farmer Mac eligible loan assets. We also proposed conforming changes to the model at Appendix A of part 652 to replace the term "Off-Balance Sheet AgVantage" with "AgVantage Plus."

Farmer Mac suggested we reduce the complexity in the rule by referring to all AgVantage products by the term "AgVantage Plus," but exclude pools with an initial principal amount under $25 million. We agree and have revised that definition to include any AgVantage program investment over $25 million to avoid unnecessary complexity on small deals. Only those AgVantage issuers under the original AgVantage program structure (as opposed to what we have been referring to as "AgVantage Plus") identified in the original RBCST, (64 FR 61740, November 12, 1999) will be excluded from the RBCST loss calculation.

In January 2010, Farmer Mac adopted new Financial Accounting Standards Board guidance related to the consolidation of variable interest entities (Accounting Standards Update, December 23, 2009). The adoption

required consolidation of a significant volume of previously off-balance sheet program volume onto the balance sheet. As this change impacts only the presentation of this volume and has no impact on the risk or cashflows associated with this volume, we have made minor mechanical adjustments in data inputs to nullify the impact of the adoption within the RBCST. These include creating a new asset line item for the affected consolidated volume and an offsetting line item in the liabilities section.

We finalize as proposed all other changes on this subject matter.

*C. Revise Haircuts on Non-Program Investments*

[Appendix A to Part 652]

We proposed changing the haircut levels for non-program investments in existing section 4.1.e. of Appendix A, renumbering the section as 4.1.f., to the same loss rate adjustment factors proposed for application on loans underlying guaranteed notes (*i.e.,* AgVantage Plus) as discussed in section III.B.1 of this preamble. The proposed investment haircuts to recognize counterparty risk were:

| Whole letter credit rating | Haircut (percent) |
|---|---|
| AAA | 1.41 |
| AA | 3.70 |
| A | 5.13 |
| BBB | 11.48 |
| Below BBB and Unrated | 44.52 |

We likewise proposed annually updating these figures, or as often as an updated version of the Moody's report on Default and Recovery Rates of Corporate Bond Issuers becomes available.

We received no comments on this proposal and finalize as proposed all changes on this subject matter.

*D. Other Miscellaneous Changes [§§ 651.1(b) and 652.5]*

In the process of this rulemaking, we noted citations that were not updated in prior rulemakings and make those corrections now. In a 1994 rulemaking, a definition for "affiliate" was added to § 651.1(b). This definition was later duplicated in § 652.5 as part of a 2005 rulemaking. The definition in both locations references section 8.3(b)(13) of the Act; this citation should read "section 8.3(c)(14)." The original rulemaking mistakenly used paragraph (b) instead of (c), and Congress later renumbered paragraph (c)(13) as (c)(14).[13] Both rulemakings clearly discuss the contents of section 8.3(c)(14) of the Act, so we are correcting the citations now.

## IV. Quantitative Impact of Changes on Required Capital

We received one comment from a Farm Credit System institution that understood the proposed rule to reflect only incremental capital requirements on rural utility loan volume. We are clarifying that the substantive changes to the RBCST contained in this final rulemaking involve more components of the model than simply the incremental capital requirements on rural utility volume, including changes to GOA factors applied to all AgVantage Plus-type volume and changes to investment haircuts. Due to the stated confusion by Farmer Mac regarding our intended meaning of "rural utility guarantee fee" (see Farmer Mac's request for definitional clarification above), we are providing further clarification in the estimated impacts table below:

CALCULATED REGULATORY MINIMUM CAPITAL

[$ in thousands]

| | 6/30/2010 | 9/30/2010 | 12/31/2010 |
|---|---|---|---|
| 0 RBCST Version 3.0 | 30,434 | 36,743 | 42,105 |
| 1 Revised Haircuts on Investments | 30,739 | 37,053 | 42,358 |
| 2 Tripling of Version 3.0 GOA Factors | 30,525 | 36,969 | 42,816 |
| 3 Credit Risk on Rural Utility Loans | 32,564 | 37,694 | 79,997 |
| 4 Concentration Risk Adjustment with Rural Utility Credit Risk | 79,924 | 92,844 | 123,304 |
| All RBCST Version 4.0 Effects | 82,270 | 94,966 | 125,498 |

The impact amounts on line "1" reflect only the change associated with the revised haircuts on non-program investments. The impact amounts on line "2" reflect only the change associated with the tripling of general obligation adjustment factors with all else equal in the RBC Version 3.0 (*i.e.,* it does not reflect rural utility credit-loss characterization). The impact amounts on line "3" reflect only the change associated with the credit loss characterization on rural utility volume (*i.e.,* it does not reflect the application of the tripling GOA factors to rural utility AgVantage Plus volume or agricultural AgVantage Plus volume). The impact amounts on line "4" reflect the concentration adjustment to the general obligation adjustment factor on all AgVantage Plus volume, both rural utility and agricultural, (*i.e.,* it does not reflect the application of the tripling GOA factors to rural utility or agricultural AgVantage Plus volume, but it does include the rural utility loss estimates isolated in line "3"). The individual estimated impacts do not have an additive relationship to the total impact on the model output. This is due to the interrelationship of the changes with one another when they are combined in Version 4.0 (proposed). It is worth noting that the marginal effects are also not constant rate effects, but depend on the starting conditions and earnings spread of Farmer Mac and the magnitude of the effect considered. For example, as the volume in the rural utility category is increased, the rate of increase in the marginal minimum risk-based capital requirement begins to increase as the downward-pressure on that rate exerted by earnings from other activities are further diluted as those earnings become increasingly smaller in proportion to total estimated losses. The same effect is evident in other ways as risk increases and the offsetting effect of earnings is diminished relative to increased risk. For example, this effect would be observed, all else equal, with lower initial earnings spreads or higher AgVantage Plus counterparty concentrations, updated (and higher) Moody's base corporate bond default rates, or ratings downgrades. Thus, the

[13] Section 8.3 is found at 12 U.S.C. 2279aa–3 and discusses the powers of Farmer Mac and its board. Amendments to the Act made in the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 [Pub. L. 102–237] gave Farmer Mac the authority to establish, acquire, and maintain affiliates under applicable state law. This 1991 amendment led to the inclusion of the term in § 651.1. Subsequently, a 1996 amendment to the Act [Pub. L. 104–105] redesignated paragraph (c)(13) as (c)(14).

values in the table above are illustrative of the relative effects of the revisions in this rulemaking, given the conditions as of each quarter end, but can be materially affected by changes in starting conditions or risk compositions through time. Moreover, due to the substitutability allowed within certain loan pools and ability of AgVantage counterparties to vary the level of overcollateral submitted in each quarter of a pool's life, the risk characteristics of an individual pool are subject to change quarter to quarter.

Our tests indicate that changes related to credit losses on rural utility loans combined with the concentration risk adjustment to the GOA would have the most significant impact on risk-based capital calculated by the model.

**V. Regulatory Flexibility Act**

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies the final rule will not have a significant economic impact on a substantial number of small entities. Farmer Mac has assets and annual income over the amounts that would qualify it as a small entity. Therefore, Farmer Mac is not considered a "small entity" as defined in the Regulatory Flexibility Act.

**List of Subjects**

*12 CFR Part 651*

Agriculture, Banks, Banking, Conflicts of interest, Rural areas.

*12 CFR Part 652*

Agriculture, Banks, Banking, Capital, Investments, Rural areas.

For the reasons stated in the preamble, parts 651 and 652 of chapter VI, title 12 of the Code of Federal regulations are amended to read as follows:

## PART 651—FEDERAL AGRICULTURAL MORTGAGE CORPORATION GOVERNANCE

■ 1. The authority citation for part 651 continues to read as follows:

**Authority:** Secs. 4.12, 5.9, 5.17, 8.11, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2252, 2279aa–11, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

### § 651.1 [Amended]

■ 2. Amend § 651.1(b) by removing the reference, "section 8.3(b)(13)" and adding in its place the reference, "section 8.3(c)(14)".

## PART 652—FEDERAL AGRICULTURAL MORTGAGE CORPORATION FUNDING AND FISCAL AFFAIRS

■ 3. The authority citation for part 652 continues to read as follows:

**Authority:** Secs. 4.12, 5.9, 5.17, 8.11, 8.31, 8.32, 8.33, 8.34, 8.35, 8.36, 8.37, 8.41 of the Farm Credit Act (12 U.S.C. 2183, 2243, 2252, 2279aa–11, 2279bb, 2279bb–1, 2279bb–2, 2279bb–3, 2279bb–4, 2279bb–5, 2279bb–6, 2279cc); sec. 514 of Pub. L. 102–552, 106 Stat. 4102; sec. 118 of Pub. L. 104–105, 110 Stat. 168.

### Subpart A—Investment Management

■ 4. Section 652.5 is amended by revising the definition for "affiliate" to read as follows:

### § 652.5 Definitions.

* * * * *

*Affiliate* means any entity established under authority granted to the Corporation under section 8.3(c)(14) of the Farm Credit Act of 1971, as amended.

* * * * *

### Subpart B—Risk-Based Capital Requirements

■ 5. Amend § 652.50 by adding alphabetically the following definitions:

### § 652.50 Definitions.

* * * * *

*AgVantage Plus* means both the product by that name used by Farmer Mac and other similarly structured program volume that Farmer Mac might finance in the future under other names. Those AgVantage securities with initial principal amounts under $25 million and whose issuers were part of the original AgVantage program are excluded from this definition.

* * * * *

*Rural utility guarantee fee* means the actual guarantee fee charged for off-balance sheet volume and the earnings spread over Farmer Mac's funding costs for on-balance sheet volume on rural utility loans.

■ 6. Amend § 652.65 by:

■ a. Redesignating paragraphs (b)(5) and (6) as paragraphs (b)(6) and (7);

■ b. Adding a new paragraph (b)(5);

■ c. Revising newly redesignated paragraph (b)(6) and paragraph (d)(2) to read as follows:

### § 652.65 Risk-based capital stress test.

* * * * *

(b) * * *

(5) You will calculate loss rates on rural utility loans as further described in Appendix A.

(6) You will further adjust losses for loans that collateralize the general obligation of AgVantage Plus volume, and for loans where the program loan counterparty retains a subordinated interest in accordance with Appendix A to this subpart.

* * * * *

(d) * * *

(2) You must use model assumptions to generate financial statements over the 10-year stress period. The major assumption is that cashflows generated by the risk-based capital stress test are based on a steady-state scenario. To implement a steady-state scenario, when on- and off-balance sheet assets and liabilities amortize or are paid down, you must replace them with similar assets and liabilities (AgVantage Plus volume is not replaced when it matures). Replace amortized assets from discontinued loan programs with current loan programs. In general, keep assets with small balances in constant proportions to key program assets.

* * * * *

■ 7. Amend Appendix A of subpart B, part 652 by:

■ a. Revising the table of contents;

■ b. Revising the last sentence of section 1.0.a.;

■ c. Adding a new fourth sentence to section 2.0;

■ d. Adding the words "for All Types of Loans, Except Rural Utility Loans" at the end of each heading for sections 2.1, 2.2, 2.3, and 2.5;

■ e. Revising section 2.4.b.3 introductory text, b.3.A., and b.4 introductory text;

■ f. Adding a new section 2.6;

■ g. Renumbering the footnote in section 3.0 from "15" to "16";

■ h. Revising section 4.1.b., redesignating section 4.1.e. as section 4.1.f., adding a new section 4.1.e., and revising newly redesignated section 4.1.f.;

■ i. Revising section 4.2.b. introductory text, paragraphs b.(1)(A)(v), b.(1)(A)(vi), adding paragraph b.(1)(A)(vii), revising the last sentence of paragraph b.(1)(B), the first sentence of paragraph b.(2), and the last sentence of paragraph b.(3) introductory text;

■ j. Adding section 4.3.e.; and,

■ k. Revising the second sentence of section 4.4.

The revisions and additions read as follows:

**Appendix A—Subpart B of Part 652—Risk-Based Capital Stress Test**

1.0 Introduction.
2.0 Credit Risk.
2.1 Loss-Frequency and Loss-Severity Models for All Types of Loans, Except Rural Utility Loans.
2.2 Loan-Seasoning Adjustment for All Types of Loans, Except Rural Utility Loans.

2.3 Example Calculation of Dollar Loss on One Loan for All Types of Loans, Except Rural Utility Loans.
2.4 Treatment of Loans Backed by an Obligation of the Counterparty and Loans for Which Pledged Loan Collateral Volume Exceeds Farmer Mac-Guaranteed Volume.
2.5 Calculation of Loss Rates for Use in the Stress Test for All Types of Loans, Except Rural Utility Loans.
2.6 Calculation of Loss Rates on Rural Utility Volume for Use in the Stress Test.
3.0 Interest Rate Risk.
3.1 Process for Calculating the Interest Rate Movement.
4.0 Elements Used in Generating Cashflows.
4.1 Data Inputs.
4.2 Assumptions and Relationships.
4.3 Risk Measures.
4.4 Loan and Cashflow Accounts.
4.5 Income Statements.
4.6 Balance Sheets.
4.7 Capital.
5.0 Capital Calculations.
5.1 Method of Calculation.

* * * * *

*1.0 Introduction*

a. * * * The stress test also uses historic agricultural real estate mortgage performance data, rural utility guarantee fees, relevant economic variables, and other inputs in its calculations of Farmer Mac's capital needs over a 10-year period.

* * * * *

*2.0 Credit Risk*

* * * Loss rates discussed in this section apply to all loans, unless otherwise indicated. * * *

* * * * *

*2.4 Treatment of Loans Backed by an Obligation of the Counterparty, and Loans for Which Pledged Loan Collateral Volume Exceeds Farmer Mac-Guaranteed Volume*

* * * * *

b. * * *

3. Loans with a positive loss estimate remaining after adjustments in "1." and "2." above are further adjusted for the security provided by the general obligation of the counterparty. To make this adjustment in our example, multiply the estimated dollar losses remaining after adjustments in "1." and "2." above by the appropriate general obligation adjustment (GOA) factor based on the counterparty's whole-letter issuer credit rating by a nationally recognized statistical rating organization (NRSRO) and the ratio of the counterparty's concentration of risk in the same industry sector as the loans backing the AgVantage Plus volume, as determined by the Director.

A. The Director will make final determinations of concentration ratios on a case-by-case basis by using publicly reported data on counterparty portfolios, non-public data submitted and certified by Farmer Mac as part of its RBCST submissions, and will generally recognize rural electric cooperatives and rural telephone cooperatives as separate rural utility sectors. The following table sets forth the GOA factors and their components by whole-letter credit rating (Adjustment Factor = Default Rate × Severity Rate × 3), which may be further adjusted for industry sector concentration by the Director.[15]

| A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|
| Whole-letter rating | Default rate (percent) | Severity rate (percent) | V3.0 GOA factor (percent) | V4.0 GOA factors (D × 3) (percent) | Concentration ratio (e.g., 25%) (percent) | Factor with concentration adjustment 1 − ((1 − E) × (1 − F)) (percent) |
| AAA | 0.897 | 54 | 0.48 | 1.41 | 25.00 | 26.06 |
| AA | 2.294 | 54 | 1.24 | 3.70 | 25.00 | 27.78 |
| A | 2.901 | 54 | 1.57 | 5.13 | 25.00 | 28.84 |
| BBB | 7.061 | 54 | 3.82 | 11.48 | 25.00 | 33.61 |
| Below BBB and Unrated | 26.827 | 54 | 14.50 | 44.52 | 25.00 | 58.39 |

* * * * *

4. Continuing the previous example, the pool contains two loans on which Farmer Mac is guaranteeing a total of $2 million and with total submitted collateral of 110 percent of the guaranteed amount. Of the 10-percent total overcollateral, 5 percent is contractually required under the terms of the transaction. The pool consists of two loans of slightly over $1 million. Total overcollateral is $200,000 of which $100,000 is contractually required. The counterparty has a single "A" credit rating, a 25-percent concentration ratio, and after adjusting for contractually required overcollateral, estimated losses are greater than zero. The net loss rate is calculated as described in the steps in the table below.

| | Loan A | Loan B |
|---|---|---|
| 1 Guaranteed Volume | $2,000,000 | |
| 2 Origination Balance of 2-Loan Portfolio | $1,080,000 | $1,120,000 |
| 3 Age-Adjusted Loss Rate | 7% | 5% |
| 4 Estimated Age-Adjusted Losses | $75,600 | $56,000 |
| 5 Guarantee Volume Scaling Factor | 90.91% | 90.91% |
| 6 Losses Adjusted for Total Overcollateral | $68,727 | $50,909 |
| 7 Contractually Required Overcollateral on Pool (5%) | $100,000 | |
| 8 Net Losses on Pool Adjusted for Contractually Required Overcollateral | $19,636 | |
| 9 GOA Factor for "A" Issuer with 25% Concentration Ratio | 28.84% | |
| 10 Losses Adjusted for "A" General Obligation | $5,664 | |
| 11 Loss Rate Input in the RBCST for this Pool | 0.28% | |

* * * * *

*2.6 Calculation of Loss Rates on Rural Utility Volume for-Use in the Stress Test*

You must submit the outstanding principal, maturity date of the loan, maturity date of the AgVantage Plus contract (if applicable), and the rural utility guarantee fee percentage for each loan in Farmer Mac's rural utility loan portfolio on the date at

[15] Emery, K., Ou S., Tennant, J., Kim F., Cantor R., "Corporate Default and Recovery Rates, 1920—2007," published by Moody's Investors Service, February 2008—the most recent edition as of March 2008; Default Rates, page 24, Recovery Rates (Severity Rate = 1 minus Senior Unsecured Average Recovery Rate) page 20.

which the stress test is conducted. You must multiply the rural utility guarantee fee by two to calculate the loss rate on rural utility loans under stressful economic conditions and then multiply the loss rate by the total outstanding principal. To arrive at the net rural utility loan losses, you must next apply the steps "5" through "11" of section 2.4.b.4 of this Appendix. For loans under an AgVantage Plus-type structure, the calculated losses are distributed over time on a straight-line basis. For loans that are not part of an AgVantage Plus-type structure, losses are distributed over the 10-year modeling horizon, consistent with other non-AgVantage Plus loan volume.

* * * * *

*4.1 Data Inputs*

* * * * *

b. *Cashflow Data for Asset and Liability Account Categories.* The necessary cashflow data for the spreadsheet-based stress test are book value, weighted average yield, weighted average maturity, conditional prepayment rate, weighted average amortization, and weighted average guarantee fees and rural utility guarantee fees. The spreadsheet uses this cashflow information to generate starting and ending account balances, interest earnings, guarantee fees, rural utility guarantee fees, and interest expense. Each asset and liability account category identified in this data requirement is discussed in section 4.2 "Assumptions and Relationships."

* * * * *

e. *Loan-Level Data for All Rural Utility Program Volume.* The stress test requires loan-level data for all rural utility program volume. The specific loan data fields required for calculating the credit risk are outstanding principal, maturity date of the loan, maturity date of the AgVantage Plus contract (if applicable), and the rural utility guarantee fee percentage for each loan in Farmer Mac's rural utility loan portfolio on the date at which the stress test is conducted.

f. *Weighted Haircuts for Non-Program Investments.* For non-program investments, the stress test adjusts the weighted average yield data referenced in section 4.1.b. to reflect counterparty risk. Non-program investments are defined in § 652.5. The Corporation must calculate the haircut to be applied to each investment based on the lowest whole-letter credit rating the investment received from an NRSRO using the haircut levels in effect at the time. Haircut levels shall be the same amounts calculated for the GOA factor in section 2.4.b.3 above. The first table provides the mappings of NRSRO ratings to whole-letter ratings for purposes of applying haircuts. Any "+" or "−" signs appended to NRSRO ratings that are not shown in the table should be ignored for purposes of mapping NRSRO ratings to FCA whole-letter ratings. The second table provides the haircut levels by whole-letter rating category.

FCA WHOLE-LETTER CREDIT RATINGS MAPPED TO RATING AGENCY CREDIT RATINGS

| | | | | | |
|---|---|---|---|---|---|
| FCA Ratings Category | AAA | AA | A | BBB | Below BBB and Unrated. |
| Standard & Poor's Long-Term. | AAA | AA | A | BBB | Below BBB and Unrated. |
| Fitch Long-Term | AAA | AA | A | BBB | Below BBB and Unrated. |
| Standard & Poor's Short-Term. | A–1+<br>SP–1+ | A–1<br>SP–1 | A–2<br>SP–2 | A–3 | SP–3, B, or Below and Unrated. |
| Fitch Short-Term | F–1+ | F–1 | F–2 | F–3 | Below F–3 and Unrated. |
| Moody's | | Prime-MIG12<br>VMIg1 | Prime-2 MIG2 VMIG2 | Prime-3 MIG3 VMIG3 | Not Prime, SG and Unrated. |
| Fitch Bank Ratings | A | B<br>A/B | C<br>B/C | D<br>C/D | E.<br>D/E. |
| Moody's Bank Financial Strength Rating. | A | B | C | D | E. |

FARMER MAC RBCST MAXIMUM HAIRCUT BY RATINGS CLASSIFICATION

| Ratings classification | Non-program investment counterparties (excluding derivatives) (percent) |
|---|---|
| Cash | 0.00 |
| AAA | 1.41 |
| AA | 3.70 |
| A | 5.13 |
| BBB | 11.48 |
| Below BBB or Unrated | 44.52 |

* * * * *

*4.2 Assumptions and Relationships*

* * * * *

b. From the data and assumptions, the stress test computes pro forma financial statements for 10 years. The stress test must be run as a "steady state" with regard to program balances (with the exception of AgVantage Plus volume, in which case maturities are recognized by the model), and where possible, will use information gleaned from recent financial statements and other data supplied by Farmer Mac to establish earnings and cost relationships on major program assets that are applied forward in time. As documented in the stress test, entries of "1" imply no growth and/or no change in account balances or proportions relative to initial conditions with the exception of pre-1996 loan volume being transferred to post-1996 loan volume. The interest rate risk and credit loss components are applied to the stress test through time. The individual sections of that worksheet are:

(1) * * *

(A) * * *

(v) Loans held for securitization;

(vi) Farmer Mac II program assets; and

(vii) Rural Utility program volume on balance sheet.

(B) * * * The exceptions are that expiring pre-1996 Act program assets are replaced with post-1996 Act program assets and AgVantage Plus volume maturities are recognized by the model.

(2) *Elements related to other balance sheet assumptions through time.* As well as interest earning assets, the other categories of the balance sheet that are modeled through time include interest receivable, guarantee fees receivable, rural utility guarantee fees receivable, prepaid expenses, accrued interest payable, accounts payable, accrued expenses, reserves for losses (loans held and guaranteed securities), and other off-balance sheet obligations. * * *

(3) *Elements related to income and expense-assumptions.* * * * These parameters are the gain on agricultural mortgage-backed securities (AMBS) sales, miscellaneous income, operating expenses, reserve requirement, guarantee fees, rural utility guarantee fees, and loan loss resolution timing.

* * * * *

*4.3 Risk Measures*

* * * * *

e. The credit loss exposure on rural utility volume, described in section 2.6, "Calculation of Loss Rates on Rural Utility Volume for Use in the Stress Test," is entered into the "Risk Measures" worksheet applied to the volume balance. All losses arising from rural utility loans are expressed as annual loss rates and distributed over the weighted average maturity of the rural utility AgVantage Plus Volume, or as annual loss across the full 10-year modeling horizon in the case of rural utility Cash Window loans.

* * * * *

*4.4 Loan and Cashflow Accounts*

* * * The steady-state formulation results in account balances that remain constant except for the effects of discontinued programs, maturing AgVantage Plus positions, and the LLRT adjustment. * * *

* * * * *

Dated: April 21, 2011.

**Mary Alice Donner,**

*Acting Secretary, Farm Credit Administration Board.*

[FR Doc. 2011–10172 Filed 4–26–11; 8:45 am]

BILLING CODE 6705–01–P

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 40**

**[Docket No. RM09–14–000; Order No. 752]**

## Version One Regional Reliability Standard for Transmission Operations

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule.

**SUMMARY:** Under section 215(d)(2) of the Federal Power Act, the Federal Energy Regulatory Commission approves regional Reliability Standard TOP–007–WECC–1 (System Operating Limits) developed by the Western Electric Coordinating Council (WECC) and submitted to the Commission for approval by the North American Electric Reliability Corporation. The primary purpose of this regional Reliability Standard is to ensure that actual flows and associated scheduled flows on major WECC transfer paths do not exceed system operating limits for more than 30 minutes. The Commission also approves the retirement of WECC regional Reliability Standard TOP–STD–007–0, which is replaced by the regional Reliability Standard approved in this Final Rule. The Commission also directs WECC to modify the associated violation risk factors and violation severity levels.

**DATES:** *Effective Date:* This rule will become effective June 27, 2011.

**FOR FURTHER INFORMATION CONTACT:**

William Edwards (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6669.

Mindi Sauter (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6830.

E. Nick Henery (Technical Information), Office of Electric Reliability, Division of Policy Analysis and Rulemaking, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8636.

Danny Johnson (Technical Information), Office of Electric Reliability, Division of Reliability Standards, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8892.

**SUPPLEMENTARY INFORMATION:**

Before Commissioners: Jon Wellinghoff, Chairman; Marc Spitzer, Philip D. Moeller, John R. Norris, and Cheryl A. LaFleur.

Issued April 21, 2011.

1. Under section 215(d)(2) of the Federal Power Act (FPA),[1] the Commission approves regional Reliability Standard TOP–007–WECC–1 (System Operating Limits) developed by the Western Electricity Coordinating Council (WECC) and submitted to the Commission for approval by the North American Electric Reliability Corporation (NERC).[2] The primary purpose of the approved regional Reliability Standard is to ensure that actual flows and associated scheduled flows on major WECC transfer paths do not exceed system operating limits (SOL) for more than 30 minutes. The Commission also approves the retirement of WECC regional Reliability Standard TOP–STD–007–0, which is replaced by the regional Reliability Standard approved in this Final Rule. The Commission also directs WECC to modify the associated violation risk factors (VRF) and violation severity levels (VSL).

### I. Background

#### *A. Mandatory Reliability Standards*

2. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[3]

3. Reliability Standards that the ERO proposes to the Commission may include Reliability Standards that are proposed to the ERO by a Regional Entity to be effective in that region.[4] In Order No. 672,[5] the Commission noted that:

> As a general matter, we will accept the following two types of regional differences, provided they are otherwise just, reasonable, not unduly discriminatory or preferential and in the public interest, as required under the statute: (1) A regional difference that is more stringent than the continent-wide Reliability Standard, including a regional difference that addresses matters that the continent-wide Reliability Standard does not; and (2) a regional Reliability Standard that is necessitated by a physical difference in the Bulk-Power System.[6]

When the ERO reviews a regional Reliability Standard that would be applicable on an interconnection-wide basis and that has been proposed by a Regional Entity organized on an Interconnection-wide basis, the ERO must rebuttably presume that the regional Reliability Standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.[7] In turn, the Commission must give "due weight" to the technical expertise of the ERO and of a Regional Entity organized on an interconnection-wide basis.[8]

#### *B. WECC Regional Reliability Standards*

4. On April 19, 2007, the Commission accepted delegation agreements between NERC and each of eight Regional Entities.[9] In the order, the Commission accepted WECC as a Regional Entity organized on an interconnection-wide basis. As a Regional Entity, WECC oversees Bulk-Power System reliability in the Western Interconnection. The WECC region encompasses nearly 1.8 million square miles, including 14 western U.S. states, the Canadian provinces of Alberta and British Columbia, and the northern portion of Baja California in Mexico.

5. In June 2007, the Commission approved eight regional Reliability Standards that apply in the Western Interconnection, including TOP–STD–007–0.[10] Currently-effective TOP–STD–007–0 has the stated purpose of ensuring that the Western Interconnection's operating transfer capability (OTC) limits requirements are not exceeded. In approving the current regional Reliability Standard, the Commission found that it was more stringent than the corresponding continent-wide Reliability Standard TOP–007–0.

6. However, the Commission also directed WECC to develop modifications to TOP–STD–007–0 to address certain shortcomings identified by NERC with regard to such matters as format, aligning WECC regional definitions with the NERC Glossary of Terms used in Reliability Standards,

[1] 16 U.S.C. 824o (2006).

[2] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[3] *See* 16 U.S.C. 824o(e).

[4] A Regional Entity is an entity that has been approved by the Commission to enforce Reliability Standards under delegated authority from the ERO. *See* 16 U.S.C. 824o(a)(7) and (e)(4).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204 (2006), *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[6] *Id.* P 291.

[7] 16 U.S.C. 824o(d)(3).

[8] *Id.* § 824o(d)(2).

[9] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,060 (2007).

[10] *North American Electric Reliability Corp.,* 119 FERC ¶ 61,260 (2007) (June 2007 Order).

and removing compliance and measure references.[11]

*C. WECC Regional Reliability Standard TOP–007–WECC–1*

7. On March 25, 2009, NERC submitted a petition to the Commission seeking approval of TOP–007–WECC–1 and requesting the concurrent retirement of currently effective TOP–STD–007–0.[12] NERC requests an effective date for the proposed regional Reliability Standard on the first day of the first quarter after applicable regulatory approval.

8. TOP–007–WECC–1 applies to transmission operators for the transmission paths in the most current table titled "Major WECC Transfer Paths in the Bulk Electric System" (WECC Transfer Path Table) located on the WECC Web site.[13] The stated purpose of the regional Reliability Standard is to ensure that actual flows and associated scheduled flows on major WECC transfer paths do not exceed a SOL for more than 30 minutes.

9. NERC states that the regional Reliability Standard satisfies the factors, set forth in Order No. 672, that the Commission considers when determining whether a proposed Reliability Standard is just, reasonable, not unduly discriminatory or preferential and in the public interest.[14] According to NERC, TOP–007–WECC–1 is clear and unambiguous regarding what and who is required to comply. NERC states that TOP–007–WECC–1 has clear and objective measures for compliance and achieves a reliability goal (namely, that operating power flows along major paths are within not only interconnection reliability operating limits (IROLs) but also SOLs) effectively and efficiently. NERC also states that the requirements in TOP–007–WECC–1 are intended to be more stringent than and cover areas not covered by the corresponding continent-wide Reliability Standard TOP–007–0. NERC also notes that its public posting of the proposed regional Reliability Standard did not elicit any significant technical objection.[15]

10. TOP–007–WECC–1 contains two Requirements and one Sub-requirement, summarized as follows:

*Requirement R1:* Requires a transmission operator of a major WECC transfer path to take immediate action to return actual flows that are in excess of the path's system operating limits to within the SOLs in no longer than 30 minutes.

*Requirement R2:* Requires a transmission operator of a major WECC transfer path to ensure that the net scheduled interchange across the path does not exceed the path's SOLs, when the transmission operator implements its real-time schedules for the next hour.

*Sub-requirement R2.1:* requires a transmission operator of a major WECC transfer path to adjust the net scheduled interchange across the path within 30 minutes so that it does not exceed the path's new SOL value if the SOL decreases within 20 minutes before the start of the hour.

11. In the Petition, NERC asserts that the regional Reliability Standard covers matters not covered by a continent-wide Reliability Standard and is more stringent than the corresponding continent-wide Reliability Standard, TOP–007–0. NERC explains that the continent-wide Reliability Standard TOP–007–0, requires the transmission operator to return its transmission path flows to within interconnection reliability operating limits (IROLs) as soon as possible, but no longer than 30 minutes following a contingency or event, whereas the regional Reliability Standard, TOP–007–WECC–1, requires the transmission operator of a major WECC transfer path to take immediate action to return the actual power flow to within SOLs such that at no time shall the power flow exceed the SOLs for longer than 30 minutes. In sum, there is no continent-wide Reliability Standard requirement to return the transmission system to within SOL within a certain time , only a requirement to report to the Reliability Coordinator when a SOL has been exceeded. NERC notes that TOP–007–WECC–1 specifically applies to the major paths in the Western Interconnection regardless of whether the limit is defined as an IROL or a SOL. Further, the requirement in regional Reliability Standard TOP–007–WECC–1 for maintaining Net Scheduled Interchange within a path's SOL is also not covered in the continent-wide Reliability Standards.

12. NERC also provides, as Exhibit C to its Petition, a Record of Development of Proposed Reliability Standard. Included in the approximately 100-page development record is a "mapping document" prepared by the WECC standards drafting team that compares the related provisions of the currently-effective regional Reliability Standard, TOP–STD–007–0, to the modified regional Reliability Standard, TOP–007–WECC–1 and discusses the proposed change and impact.[16]

*D. Notice of Proposed Rulemaking*

13. On December 16, 2010, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve TOP–007–WECC–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[17] The Commission proposed to approve TOP–007–WECC–1 because regional Reliability Standard TOP–007–WECC–1 appears to cover topics not covered by the corresponding continent-wide Reliability Standard, TOP–007–0, thus meeting a criterion for approving a regional difference. Specifically, the NOPR stated that TOP–007–WECC–1 Requirement R1 would require the transmission operator of a major WECC transfer path to take immediate action to return the actual power flow to within SOLs such that at no time shall the power flow exceed the SOLs for longer than 30 minutes. While NERC's continent-wide Reliability Standards do have a requirement to report exceeding SOLs to the reliability coordinator, they do not have a requirement to return the transmission system to within SOLs within a time certain. The Commission also stated that Requirement R2 of the regional Reliability Standard would prohibit the transmission operator from having the net scheduled interchange for power flow over an interconnection or transmission path above the path's SOL when the transmission operator implements its real-time schedules for the next hour, while there currently is no such requirement in a NERC Reliability Standard. In addition to these stringencies, the regional Reliability Standard addresses modifications directed by the Commission in the June 2007 Order.

14. However, the Commission requested further clarification in the NOPR regarding several aspects of the regional Reliability Standard in order to better understand certain concerns not fully explained in the NERC Petition. Specifically, the Commission asked for comments and additional information

[11] *Id.* P 55, 110.

[12] *North American Reliability Corp.,* March 25, 2009 Petition for Approval of Proposed Western Electric Coordinating Council Regional Reliability Standard TOP–007–WECC–1 (NERC Petition).

[13] *See* WECC Transfer Path Table, *available at: http://www.wecc.biz/Docs/Documents/Table%20Major%20Paths%204-28-08.doc.* The Transfer Path Table includes a footnote that provides, "[f]or an explanation of terms, path numbers, and definition for the paths refer to WECC's Path Rating Catalog."

[14] Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 323–337.

[15] NERC Petition at 9.

[16] *See* NERC Petition, Exhibit C, Comparison of WECC Standard TOP–STD–007–0 to proposed WECC Standard TOP–007–WECC–1.

[17] *Version One Regional Reliability Standard for Transmission Operations,* Notice of Proposed Rulemaking, 75 FR 81,157 (Dec. 27, 2010), FERC Stats. & Regs. ¶ 32,668 (2010).

about the following concerns: (1) Whether TOP–007–WECC–1 would allow transmission operators to operate the system at a single contingency away from cascading failure for up to 30 minutes; (2) the change in the time allowed to respond to a stability-limited SOL violation from 20 to 30 minutes; (3) the substitution of the term "system operating limit" for the term "operating transfer capability"; and (4) replacement of the WECC Transfer Path Table attachment to the regional Reliability Standard with an internet link. The Commission also proposed to direct WECC to develop a modification to the regional Reliability Standard to address a Commission concern regarding the WECC Transfer Path Table and to revise the VRF and VSL assignments as described and addressed below.

15. In response to the NOPR, comments were filed by four interested parties.[18] The comments generally support the approval of TOP–007–WECC–1. The comments also offered additional clarification and data that assisted the Commission in the evaluation of TOP–007–WECC–1. In the discussion below, we address the issues raised by these comments.

## II. Discussion

16. The Commission approves TOP–007–WECC–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. TOP–007–WECC–1 covers topics not covered by the corresponding continent-wide Reliability Standard, TOP–007–0, thus meeting a criterion for approving a regional difference. Specifically, Requirement R1 requires the transmission operator of a major WECC transfer path to take immediate action to return the actual power flow to within SOLs such that at no time shall the power flow exceed the SOLs for longer than 30 minutes. While there is a requirement in the continent-wide Reliability Standards to report exceeding SOLs to the reliability coordinator, specifically Reliability Standard TOP–007–1, the continent-wide Reliability Standards do not have a requirement to return the transmission system to within SOLs within a time certain and thus the addition of this time limitation makes the regional standard more stringent than the continental standards. Additionally, TOP–007–WECC–1 Requirement R2 prohibits the transmission operator from having the net scheduled interchange for power flow over an interconnection or transmission path above the path's SOL when the transmission operator implements its real-time schedules for the next hour. There is no such requirement in the continent-wide Reliability Standards. In addition to these added stringencies, the regional Reliability Standard addresses modifications directed by the Commission in the June 2007 Order. In addition, the Commission finds that the regional Reliability Standard is just and reasonable in that it is clear and unambiguous regarding what is required and who is required to comply and that it has clear and objective measures for compliances. Further, the regional Reliability Standard is in the public interest as it will serve to achieve a reliability goal, namely, that operating power flows along major paths are within not only interconnection reliability operating limits but also SOLs. For these reasons, the Commission approves TOP–007–WECC–1.

17. Below, we address the four specific issues regarding TOP–007–WECC–1 that were raised in the NOPR and addressed by commenters: (1) Whether TOP–007–WECC–1 would allow transmission operators to operate the system at a single contingency away from cascading failure for up to 30 minutes; (2) the appropriateness of a 30 minute time limit for responding to a stability-limited SOL violation; (3) the substitution of the term "system operating limit" for the term "operating transfer capability"; and (4) removal of the WECC Transfer Path Table from the regional Reliability Standard. Regarding the fourth issue, the WECC Transfer Path Table, the Commission directs WECC to address the concern regarding the need for WECC to develop a means to provide consistency and transparency when making revisions to the list of major transmission paths. Last, the Commission directs WECC to modify the associated VRFs and VSLs.

### *A. Operating One Contingency Away From a Cascading Outage*

18. In the NOPR, the Commission expressed concern that a plain reading of the proposed regional Reliability Standard's Requirement R1 does not explicitly require a transmission operator to operate the system in a manner that is two contingencies from a cascading outage. Specifically, Requirement R1 appears to allow the power flow, during steady state conditions, to exceed a stability-limited SOL for up to 30 minutes, which could mean that the system would be one contingency away from a cascading failure for that period of time. The Commission's concern arose from the fact that this requirement did not carry over from TOP–STD–007–0, which is being replaced by TOP–007–WECC–1.

19. As previously noted above, in the June 2007 Order, the Commission approved TOP–STD–007–0 as a WECC regional Reliability Standard. In the June 2007 Order, the Commission noted that the wording of TOP–STD–007–0 Requirement WR1.b, which provides that "[t]he interconnected power system shall remain stable upon loss of any one single element without system cascading that could result in the successive loss of additional elements," suggests that WECC expects that stability-limited SOLs will be addressed in such a manner that the system is two contingencies away from a cascading failure. The Commission noted, however, that Measure WM1 of TOP–STD–007–0 may not be consistent with Requirement WR1.b, and that the Measure could allow the power system to be operated one contingency away from a cascading outage. The Commission directed NERC and WECC to submit a filing within 30 days of the date of the order explaining whether Requirement WR1.b is consistent with an interpretation to operate two contingencies away from cascading failure and to clarify any inconsistency between Requirement WR1.b and corresponding Measure WM1.[19] WECC clarified in its compliance filing that "[t]he WECC transmission grid must be operated such that no cascading occurs following a single contingency."[20]

20. In the NOPR, the Commission noted that TOP–007–WECC–1 does not explicitly incorporate this clarification in its Requirements. The Commission further indicated that TOP–007–WECC–1 could be interpreted as affirmatively permitting the power system to be operated one contingency away from a cascading outage, the same concern the Commission raised with respect to TOP–STD–007–0. The Commission further noted that NERC's continent-wide Reliability Standard TOP–004–2, Requirement R2, which prohibits operating a single contingency away from cascading outage, appears to conflict with TOP–007–WECC–1. The Commission sought comment on this issue.

Comments

21. WECC agrees with the Commission that TOP–007–WECC–1 does not explicitly require a

[18] Comments were submitted by PacifiCorp, Bonneville Power Administration (BPA), WECC, and San Diego Gas & Electric Company (SDG&E).

[19] June 2007 Order, 119 FERC ¶ 61,260 at P 108–109.

[20] *North American Electric Reliability Corp.,* Compliance Filing, Docket No. RR07–11–000, at 7 (filed Jul. 9, 2007).

transmission operator to operate the system in a manner that is at least two contingencies away from cascading outages. However, WECC states that it is not necessary to include such a requirement in TOP–007–WECC–1 because WECC upholds and enforces that requirement through other means, *e.g.* in its derivation of SOLs, which WECC states has not changed. Specifically, WECC reiterates its past statements that "[t]he WECC transmission grid must be operated such that no cascading occurs following a single contingency".[21] Additionally, WECC states that all transmission operators in the Western Interconnection must comply with the continent-wide NERC Reliability Standard TOP–004–2 Requirement R2, which states that the system must be operated such that the most severe single contingency that could occur on a system will not cause separation, instability, or cascading outages.

22. PacifiCorp states that the decision to not carry over to TOP–007–WECC–1 Requirement WR1 from the TOP–STD–007–0 is appropriate because the Requirement WR1 is redundant with other mandatory and enforceable Reliability Standards, including TOP–004–2 Requirement R2. TOP–004–2 Requirement R4 states that if a transmission operator enters an unknown operating state (*i.e.,* any state for which valid operating limits have not been determined), it will be considered to be in an emergency and the transmission operator shall restore operations to respect proven reliable power system limits within 30 minutes. PacifiCorp asserts that under this framework, a transmission operator operates its system, under steady state conditions, so that cascading outages will not occur as a result of the most severe single contingency. However, if a transmission operator enters an unknown operating state (where it is possible that the transmission operator is operating a single contingency away from a cascading outage) it has 30 minutes to restore operations to within proven system limits. PacifiCorp states that TOP–007–WECC–1 mirrors the operating framework required in TOP–004–2 except that the 30-minute recovery period is triggered by exceeding a path limit rather than entering an unknown operating state.

23. Similarly, BPA states that it is unnecessary to carry over from TOP–STD–007–0, Requirement WR1, which requires transmission operators to operate the system in a manner that is two contingencies from a cascading outage, because that requirement is covered by other Reliability Standards, such as TOP–004–2. BPA also notes that the continent-wide Reliability Standard, TOP–007–0, does not contain a requirement like TOP–STD–007–0, Requirement WR1.b.

Commission Determination

24. The Commission accepts WECC's representations that although a plain reading of the regional Reliability Standard's Requirement R1 does not explicitly require a transmission operator to operate the system in a manner that is at least two contingencies from a cascading outage, WECC nonetheless upholds and enforces the requirement to operate at least two contingencies away from a cascading outage by other means. The Commission agrees with WECC that transmission operators in the Western Interconnection must comply with continent-wide Reliability Standard TOP–004–2, which requires a transmission operator to operate so that instability, uncontrolled separation, or cascading outages will not occur as a result of the most severe single contingency. Therefore, the Commission agrees with commenters that adding Requirement WR1.b of TOP–STD–007–0 to TOP–007–WECC–1 would be largely duplicative of TOP–004–2 Requirement R2. The Commission reiterates that the lack of such a requirement in TOP–007–WECC–1 does not absolve a transmission operator from the requirement to operate the system in a manner that it is at least two contingencies away from cascading at all times during steady state operating conditions. Based on the above discussion, the Commission finds that it is unnecessary to modify TOP–007–WECC–1 with respect to this issue.

*B. Change in Response Time From 20 to 30 Minutes*

25. In the NOPR, the Commission noted that the modified regional Reliability Standard TOP–007–WECC–1 sets a 30-minute limit for returning actual flows on stability-limited paths to within the SOL ratings. The currently-effective regional Reliability Standard, TOP–STD–007–0, which is being replaced by TOP–007–WECC–1, has a 20-minute limit. Specifically, TOP–STD–007–0, WM1, requires transmission operators to return actual flows to within the path's OTC ratings in no more than 20 minutes on stability-limited paths, and within 30 minutes for thermally-limited paths.[22] Conversely TOP–007–WECC–1, which will replace TOP–STD–007–0, sets a uniform 30-minute time limit for both stability-limited and thermally-limited paths.

26. In the NOPR, the Commission noted that it would evaluate the proposed 10-minute decrease in the time limit for returning actual flows on stability-limited paths to within SOL ratings on its merit so long as adequate reliability is maintained.[23] However, the Commission found that the technical information provided in NERC's Petition and in the standard development record for TOP–007–WECC–1 is insufficient to ensure that with the 20 to 30 minute time limit change, adequate reliability is maintained. Thus, the Commission requested that WECC, NERC and other interested entities provide an explanation and supporting technical data demonstrating that changing from a 20 to 30 minute response time is "insignificant in terms of the probability of the next contingency occurring".[24]

Comments

27. WECC responds that experience has shown that 20 minutes is not enough time to make an informed decision and implement that decision to return to within the applicable SOL rating. WECC explains that the original 20-minute limit for returning to within SOLs was developed when the NERC Disturbance Control Standard (DCS) recovery period was 10 minutes rather than the current 15 minutes. When NERC adopted a 15-minute DCS recovery period, no adjustment was made to the 20-minute limit for returning to within SOLs. WECC also states that because it takes time to assess the conditions that caused the SOL violation and identify corrective actions, the 20-minute time limit may result in potentially excessive actions to reduce the flows back to within the SOL, which may place the system at a greater risk than is necessary to mitigate the SOL violation. WECC notes that experts in the Western Interconnection agree that this risk exceeds any perceived risk of extending the time limit from 20 to 30 minutes. WECC also states that because major paths in the Western Interconnection may change from being

[21] WECC Comments at 4 (citing North American Electric Reliability Corp., Compliance Filing, Docket No. RR07–11–001, at 7–8 (filed Jul. 9, 2007)).

[22] Currently effective regional Reliability Standard TOP–STD–007–0 uses the term "operating transfer capability" with respect to this requirement, whereas, in TOP–007–WECC–1, the term "system operating limit" is used in lieu of operating transfer capability.

[23] *Version One Regional Reliability Standard for Resource and Demand Balancing,* 133 FERC ¶ 61,063, at P 30 (2010).

[24] NERC Petition at 28.

stability-limited to thermally-limited from time-to-time, a uniform 30-minute window for returning a path to within the SOL eliminates potential confusion stemming from the dual time limits used in TOP–STD–007–1.[25]

28. WECC also argues that the corresponding continent-wide Reliability Standard, TOP–007–0, sets a 30-minute time limit for returning the system to within an IROL,[26] and notes that an IROL violation is, by definition, more severe than a SOL violation. Therefore, WECC states that the 30-minute time limit provided in TOP–007–WECC–1 to correct a SOL violation is reasonable.

29. BPA states that increasing the response time from 20 minutes to 30 minutes does not significantly increase the exposure to a next contingency. Rather, a 20-minute response time reduces the reliability of operation and exposes the system to greater possibility of human error. Specifically, BPA states that a 30-minute response time is necessary to allow a transmission operator to take the steps necessary to return a stability-limited path to within SOL. BPA asserts that there is no technical basis for setting a shorter timeframe for returning a stability-limited path to within SOL than a thermally-limited path. BPA states that the shorter (20-minute) time limit for stability limited paths was originally adopted by WECC based on an assumption that a shorter response time reduces the probability of incurring the next contingency and therefore the risk of cascading outage. However, because the complexity of system operations has increased, 20 minutes is no longer enough time for adequate coordination. Like WECC, BPA also notes that some paths will change from stability-limited ratings to thermally-limited ratings for specific outages, and the variation in time limits has caused confusion even at the reliability coordinator level.

30. BPA also submitted an Outage Probability Analysis that shows that for a 10-minute time period: (i) For lines operated at 230 kV and above, the increased risk of an additional contingency occurring is 0.0008 percent; and (ii) for lines operated at 230 kV and below, the increased risk of an additional contingency occurring is 0.0003 percent. BPA concludes from this data that increasing the response time from 20 minutes to 30 minutes does not significantly increase the risk of exposure to an additional contingency during the response period.

Commission Determination

31. The Commission finds that WECC and BPA have adequately supported the change from a dual 20/30-minute time limit to a uniform 30-minute time limit for correcting SOL violations. The change eliminates possible confusion among operators. Further, the requirements of the regional Reliability Standard are consistent with the 30 minute timeframe for the transmission operator to implement corrective actions to bring the system back within IROL limits provided for in the corresponding continent-wide Reliability Standard, TOP–007–0. We also note that the corresponding continent-wide Reliability Standard, TOP–007–0, also requires that actions to mitigate the overload begin as soon as possible. Finally, no comments were received opposing the increase in response time. Accordingly, the Commission finds the revised regional Reliability Standard will not threaten reliability and can be approved as reasonable.

*C. Terminology*

32. In the NOPR, the Commission questioned the appropriateness of replacing the term "operating transfer capability" limit as used in the currently-effective Reliability Standard TOP–STD–007–0, with the term "SOL," as used in TOP–007–WECC–1.[27] The Commission stated that the term "SOL" is used within the Western Interconnection to refer to the facility or element that presents the most limiting of the prescribed operating criteria for the rated system path.[28] Whereas, the OTC limit corresponds to the "maximum amount of actual power transferred over direct or parallel transmission elements from one transmission operator to another transmission operator."[29] The Commission expressed concern that the terms SOL and OTC appear to measure different things. Specifically, the Commission noted that the facilities that make up the SOL may not be part of those facilities that make up the rated system path, *i.e.,* direct or parallel transmission elements comprising: (1) An interconnection from one transmission operator area to another transmission operator area; or (2) a transfer path within a transmission operator area. When the term "OTC" is replaced by "SOL," this requirement could result in a transmission operator being responsible for monitoring the flows on transmission system operating limit facilities that may not be on its "rated system path." This creates the possibility that an entity could be responsible for operating facilities that are not part of the rated path system shown in the WECC Transfer Path Table and Catalog. The Commission sought comment regarding: (i) The manner in which a transmission operator would address SOL facilities that are not part of the rated system path; (ii) the possibility that transmission operators may, under TOP–007–WECC–1, be responsible for facilities that they do not own and which are not on the rated system path but comprise the SOL; and (iii) whether the use of the term SOL rather than the term OTC is inconsistent with the WECC Path Rating Catalog and would cause confusion. Thus, we requested commenters to clarify the proper understanding of the two terms.

Comments

33. WECC states that in light of the Commission's concerns regarding the proliferation of regional terms, WECC retired the regional term, "OTC," and substituted the continent-wide NERC term, "SOL." WECC comments that there are slight differences in the language of the definitions of OTC limits and SOLs but the intent and the effect on the limits developed is the same. BPA and WECC state that both terms (SOL and OTC) are calculated using the same methodologies and result in the same values. Thus by using the term SOL, WECC states that it has not changed how the requirements of TOP–007–WECC–1 will be enforced. Specifically, WECC notes that as is the case under currently-effective TOP–STD–007–0, the new Reliability Standard, TOP–007–WECC–1 identifies transmission operators as the applicable entity for returning the system to within an SOL. BPA and WECC state that WECC simply has interchanged the terms OTC and SOL in response to the Commission's concerns related to the proliferation of regional terms and has not changed the definition or the process by which the limits are developed.

34. With respect to the Commission's concern that replacing "OTC," with

[25] WECC suggests that when considering risk to the bulk electric system, there is no substantial difference between thermally-limited and stability-limited paths. WECC Comments at 9.

[26] IROL is defined in the NERC Glossary of Terms as: "A System Operating Limit that, if violated, could lead to instability, uncontrolled separation, or Cascading Outages that adversely impact the reliability of the Bulk Electric System." *See* NERC Glossary of Terms at 23, *available at http://www.nerc.com/files/Glossary_of_Terms_2011Mar15.pdf.*

[27] TOP–STD–007–0 has the stated purpose of ensuring that the OTC limits requirements of the Western Interconnection are not exceeded. The stated purpose of TOP–007–WECC–1 is to ensure that actual flows and associated scheduled flows on Major WECC Transfer Paths do not exceed SOLs for more than 30 minutes.

[28] The most limiting facility or element may be either thermally or stability limited.

[29] *See* currently-effective regional Reliability Standard TOP–STD–007–0, Requirement WR1.

"SOL" could result in a transmission operator being responsible for monitoring the flows on transmission system operating limit facilities that may not be on its "rated system path" as shown in the WECC Transfer Path Table and the referenced Path Rating Catalog, WECC states it is not changing how that value is derived or how the requirements of the proposed regional Reliability Standard will be enforced. Further, WECC states that the responsibilities of transmission operators will not change and that the Commission should not be concerned with this change.

Commission Determination

35. The Commission finds that WECC has adequately explained its intended use of "SOL" in TOP–007–WECC–1 as a replacement for the term "OTC" as used in TOP–STD–007–0. We accept WECC's explanation that all it has done is to replace references to "OTC" with "SOL" in order to address the Commission's concern regarding the proliferation of regional terms. In response to our concern that use of the term "SOL" could result in a transmission operator being responsible for monitoring the flows on transmission system operating limit facilities that may not be on its "rated system path," we accept WECC's explanation that the applicability of the regional Reliability Standard is clear and remains unchanged.

*D. Applicability*

36. Currently-effective Reliability Standard TOP–STD–007–0 is applicable to transmission owners or operators that maintain transmission paths listed in the WECC Transfer Path Table, which is included as Attachment A to the Reliability Standard. The attachment identifies 40 major transmission paths in the Western Interconnection. TOP–007–WECC–1 does not include the WECC Transfer Path Table as an attachment; instead, a link to the internet Web site where WECC posts the Transfer Path Table is provided.

37. In the NOPR, the Commission expressed concern that by referencing the WECC Transfer Path Table hosted on the WECC Web site, the applicability of TOP–007–WECC–1 could change without Commission and industry notice and opportunity to respond. The Commission sought comment on this issue as well as how NERC and WECC will ensure that any resulting changes to the applicability of the regional Reliability Standard will not reduce its effectiveness. The Commission further requested comment regarding the location, scope, and application of the criterion that governs when paths are added or removed from the WECC Transfer Path Table.

38. Additionally, the Commission proposed to direct WECC to develop a modification to the Reliability Standard to address our concern. The Commission suggested three possible modifications: (1) Add to TOP–007–WECC–1 the criterion for identifying and modifying major transmission paths listed in the WECC Transfer Path Table and make an informational filing with the Commission and NERC each time it makes a modification to the table or referenced catalog; (2) file the criterion with the Commission and post revised transfer path tables and referenced catalogs on its Web site before they become effective with concurrent notification to NERC and the Commission; or (3) include the WECC Transfer Path Table as an attachment to the modified Reliability Standard.

Comments

39. WECC recognizes the Commission's concerns regarding the applicability of TOP–007–WECC–1 with respect to the location of the WECC transfer path table and supports modification of TOP–007–WECC–1 as outlined in the Commission's second suggestion in the NOPR. Specifically, WECC proposes to file its criteria for identifying and modifying major transmission paths listed in the WECC Transfer Path Table. WECC will publicly post any revisions to the WECC Transfer Path Table on its Web site and concurrently notify the Commission, NERC, and the industry of the change.

40. PacifiCorp notes that WECC does not have an established process for notifying affected functional entities of any additions to or deletions from the WECC Transfer Path Table. PacifiCorp is concerned that WECC could change the WECC Transfer Path Table and, therefore, the applicability of TOP–007–WECC–1 without proper notification to affected transmission operators. Thus, PacifiCorp urges WECC to: (i) File its criteria for identifying and modifying major transmission paths listed in the WECC Transfer Path Table with the Commission; and (ii) post revised tables and referenced catalogs on its Web site before they become effective, with concurrent notification to NERC and the Commission.

41. BPA also supports the Commission's proposal to require WECC to develop criteria making it clear how major transmission paths are included or excluded from the WECC Transfer Path Table.

42. No commenter opposed the Commission's proposed directive on this issue.

Commission Determination

43. Consistent with our NOPR proposal, WECC's and other parties' comments, the Commission directs WECC to file, within 60 days from the issuance of this Final Rule, WECC's criteria for identifying and modifying major transmission paths listed in the WECC Transfer Path Table. Moreover, the Commission accepts WECC's commitment to publicly post any revisions to the WECC Transfer Path Table on the WECC Web site with concurrent notification to the Commission, NERC, and industry. We believe that this process balances the interests of WECC in developing timely revisions to the WECC Transfer Path Table with the need for adequate transparency for transmission owners that are affected by changes to the WECC Transfer Path Table.

*E. Violation Risk Factors and Violation Severity Levels*

44. In the NOPR, the Commission noted that TOP–007–WECC–1 and the corresponding continent-wide Reliability Standard TOP–007–0, share the same general reliability objective: To require transmission operators to take corrective action to reduce the amount of power flowing on a transmission path when it exceeds system operating limits or interconnection reliability operating limit to below the system operating limit or interconnection reliability operating limit and thereby minimize the amount of time the Bulk-Power System is operating one contingency away from a cascading outage. The Commission sought comment from NERC and WECC regarding why the TOP–007–WECC–1 violation risk factor (VRF) assignments are not aligned with the continent-wide Reliability Standard. The Commission proposed to direct WECC to modify the assigned VRFs for TOP–007–WECC–1, Requirements R1 and R2 from "medium" and "low," respectively, to "high" and requested comment on this proposal. The Commission also noted that WECC did not assign a VRF to the Sub-requirement.

45. In the NOPR, the Commission noted that violation severity level (VSL) assignments do not conform to the NERC format, which both WECC and NERC acknowledge in the NERC Petition. The NERC Petition notes that WECC will address the formatting issue during the next revision of the regional Reliability Standard. In the NOPR, the Commission proposed to direct WECC to modify the VSL assignments associated with each Requirement and Sub-requirement of TOP–007–WECC–1,

and submit them in the approved table format.

Comments

46. With respect to the VRF assignments, WECC states that the two Reliability Standards, TOP–007–0 and TOP–007–WECC–1, do not share the same reliability objective. WECC asserts that continent-wide Reliability Standard TOP–007–0 addresses both IROLs and SOLs, but only requires transmission operator action, other than reporting, for the violation of an IROL. WECC states that, on the other hand, the regional Reliability Standard requires transmission operators to take actions for violations of SOLs, which pose a lower risk to the Bulk-Power System than IROL violations. Therefore, WECC believes that a "medium" VRF for Requirement R1 is appropriate. WECC does agree, however, that Requirement R2 is incorrectly labeled as a "low" VRF and should be assigned a "medium" VRF. No comments were filed regarding the Commission's proposed directive regarding the VSL assignments.

Commission Determination

47. A VRF is assigned to each Requirement of a Reliability Standard that relates to the expected or potential impact of a violation of the requirement on the reliability of the Bulk-Power System. VRFs are either: lower, medium or high.[30] The Commission has established guidelines for evaluating the validity of each VRF assignment.[31]

48. NERC will also define up to four VSLs (low, moderate, high, and severe) as measurements for the degree to which the requirement was violated in a specific circumstance. For a specific violation of a particular Requirement, NERC or the Regional Entity will establish the initial value range for the base penalty amount by finding the intersection of the applicable VRF and VSL in the base penalty amount table in Appendix A of its sanction guidelines. On June 19, 2008, the Commission issued an order establishing four guidelines for the development of VSLs.[32]

49. The Commission has reviewed the VRF assignments for TOP–007–WECC–1 and it is our view that the VRFs assigned to Requirements R1 and R2 are not consistent with the above-described Commission guidance. The Commission does not agree with WECC that Requirement R1 should be assigned a "medium" VRF instead of "high." The VRF Order guidance emphasizes consistency with NERC's definition of the VRF level. NERC defines a "high" risk requirement as follows: "A requirement that, if violated, *could directly cause or contribute to* bulk electric system instability, *separation,* or a cascading sequence of failures, or could place the bulk electric system at an unacceptable risk of instability, separation, or cascading failures. * * *"[33]

50. Requirement R1 applies to both stability and thermally constrained SOLs. Stability constrained SOLs by their nature can potentially have widespread system impacts such as instability, uncontrolled separation and voltage collapse. While WECC uses remedial action schemes (RAS) to control these dynamic challenges, the RAS can, in some cases, lead to controlled separation and controlled variations of stability impacts. Given the exposure to potential controlled separations, the Commission finds that the appropriate VRF for Requirement R1 is "high." Accordingly, the Commission directs WECC to modify the VRF assignment to "high" and submit the modification in a compliance filing to be submitted within 120 days from the date this Final Rule issues.

51. With respect to Requirement R2, as WECC acknowledges in its comments, Requirement R2 should be assigned a "medium" VRF. The Commission finds that Requirement R2 is not administrative in nature as it prohibits a transmission operator from allowing the net scheduled interchange across a path from exceeding the path's SOLs. Violations of Requirement R2 could directly affect the electrical state of the Bulk-Power System. Thus, the nature of Requirement R2 is consistent with NERC's definition of a "medium" VRF assignment level rather than the "lower" level. Accordingly, we direct WECC to modify the VRF assignment for Requirement R2 to "medium" and submit the modification in a compliance filing to be submitted within 120 days from the date this Final Rule issues.

52. We note that WECC did not assign a VRF to Sub-requirement R2.1. Because a determination has not yet been made regarding NERC's pending petition in Docket No. RR08–4–005, in which NERC proposes a "roll-up" approach for VRF and VSL assignments by which VRFs and VSLs would only be assigned to the main requirements and not to the sub-requirements, the Commission will defer discussion on the appropriateness of this exclusion following Commission action on NERC's proposed "roll-up" approach.

53. The Commission accepts WECC's commitment to revise the VSL assignments to conform to the NERC table format. Accordingly, we direct WECC to modify the VSL assignments for TOP–007–WECC–1, to reflect NERC's approved table format and include the revision as part of its compliance filing to be submitted within 120 days from the date this Final Rule issues.

## III. Information Collection Statement

54. The following collections of information contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995.[34] OMB's regulations require OMB to approve certain information collection requirements imposed by agency rule.[35] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

55. The Commission solicited comments on the need for and the purpose of the information contained in regional Reliability Standard TOP–007–WECC–1 and the corresponding burden to implement it. The Commission received comments on specific Requirements in the regional Reliability Standard, which we address in this Final Rule. However, we did not receive any comments on our reporting burden estimates. The Commission has directed certain modifications to the Requirements in the regional Reliability Standard being approved. However, the

[30] The specific definitions of high, medium and lower are provided in *North American Electric Reliability Corp.,* 119 FERC ¶ 61,145, at P 9 (VRF Order), *order on reh'g,* 120 FERC ¶ 61,145 (2007) (VRF Rehearing Order).

[31] The guidelines are: (1) Consistency with the conclusions of the Blackout Report; (2) consistency within a Reliability Standard; (3) consistency among Reliability Standards; (4) consistency with NERC's definition of the VRF level; and (5) treatment of requirements that commingle more than one obligation. *See* VRF Rehearing Order, 120 FERC ¶ 61,145 at P 8–13.

[32] *North American Electric Reliability Corp.,* 123 FERC ¶ 61,284, at P 20–35 (VSL Order), *order on reh'g & compliance,* 125 FERC ¶ 61,212 (2008). The VSL guidelines are: (1) VSL assignments should not have the unintended consequence of lowering the current level of compliance; (2) the VSL should ensure uniformity and consistency in the determination of penalties; (3) a VSL assignment should be consistent with the corresponding requirement; and (4) a VSL assignment should be based on a single violation, not on a cumulative number of violations.

[33] NERC Violation Risk Factor, *available at http://www.nerc.com/files/Violation_Risk_Factors.pdf* (emphasis added).

[34] 44 U.S.C. 3507(d).

[35] 5 CFR 1320.11.

modifications do not affect the burden estimate provided in the NOPR.

56. As provided in the NOPR, TOP–007–WECC–1, which would replace TOP–STD–007–0, does not modify or otherwise affect the burden related to the collection of information already in place. Thus, the replacement of the currently-effective regional Reliability Standard with TOP–007–WECC–1, including the limited modifications directed in this Final Rule, will neither increase the reporting burden nor impose any additional information collection requirements.

*Title:* Mandatory Reliability Standards for the Western Electric Coordinating Council.

*Action:* Proposed Collection FERC–725E.

*OMB Control No.:* 1902–0246.

*Respondents:* Businesses or other for-profit institutions; not-for-profit institutions.

*Frequency of Responses:* On occasion.

*Necessity of the Information:* This Final Rule approves a regional Reliability Standard pertaining to System Operating Limits. The regional Reliability Standard is one of the standards that helps ensure the reliable operation of the electrical system in the Western Interconnection.

*Internal Review:* The Commission has reviewed the regional Reliability Standard TOP–007–WECC–1 and determined that the standard's Requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

57. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, e-mail: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this Final Rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by e-mail to OMB at *oira_submission@omb.eop.gov.* Please reference FERC–725E and the docket number of this final rule in your submission.

## IV. Environmental Analysis

58. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[36] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[37] The actions taken in this Final Rule fall within this categorical exclusion in the Commission's regulations. Accordingly, neither an environmental impact statement nor environmental assessment is required.

## V. Regulatory Flexibility Act

59. The Regulatory Flexibility Act of 1980 (RFA)[38] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a proposed rule and that minimize any significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[39] The SBA has established a size standard for electric utilities, stating that a firm is small if, including its affiliates, it is primarily engaged in the transmission, generation and/or distribution of electric energy for sale and its total electric output for the preceding twelve months did not exceed four million megawatt hours.[40] The RFA is not implicated by this rule because the modification discussed herein will not have a significant economic impact on a substantial number of small entities. Moreover, the regional Reliability Standard reflects a continuation of existing requirements for these reliability entities. Accordingly, no regulatory flexibility analysis is required.

## VI. Document Availability

60. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

61. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

62. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. E-mail the Public Reference Room at *public.referenceroom@ferc.gov.*

## VII. Effective Date and Congressional Notification

63. These regulations are effective June 27, 2011. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

## List of Subjects in 18 CFR Part 40

Electric power, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2011–10051 Filed 4–26–11; 8:45 am]

BILLING CODE 6717–01–P

[36] Order No. 486, *Regulations Implementing the National Environmental Policy Act of 1969,* FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[37] 18 CFR 380.4(a)(2)(ii).

[38] 5 U.S.C. 601–612.

[39] 13 CFR 121.101

[40] 13 CFR 121.201, Sector 22, Utilities & n.1.

---

## DEPARTMENT OF STATE

## 22 CFR Parts 41 and 42

**RIN 1400–AC87**

**[Public Notice: 7426]**

## Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended

**AGENCY:** State Department.

**ACTION:** Final rule.

**SUMMARY:** This rule changes Department regulations to broaden the authority of

a consular officer to revoke a visa at any time subsequent to issuance of the visa, in his or her discretion. These changes to the Department's revocation regulations expand consular officer visa revocation authority to the full extent allowed by statute. Additionally, this rule change allows consular officers and designated officials within the Department to revoke a visa provisionally while considering a final visa revocation.

**DATES:** This rule is effective April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Lawrence B. Kurland, Jr., Legislation and Regulations Division, Visa Services, Department of State, 2401 E Street, NW., Room L–603D, Washington, DC 20520–0106, (202) 663–1260, e-mail (*KurlandLB@state.gov*).

**SUPPLEMENTARY INFORMATION:**

## Why is the Department promulgating this rule?

On occasion, after a visa has been issued, the Department or a consular officer may determine that a visa should be revoked when information reveals that the applicant was originally or has since become ineligible or may be ineligible to possess a U.S. visa. Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) (INA) authorizes the Secretary and consular officers to revoke a visa in their discretion.

Current regulations limit the circumstances in which consular officers may revoke visas. In light of security concerns, this amendment grants additional authority to consular officers to revoke visas, consistent with the statutory provisions of the INA. Although this rule eliminates the provisions that permit reconsideration of a revocation, it also allows for the provisional revocation of a visa when there is a need for further consideration of information that might lead to a final revocation. In cases where the person subject to a provisional revocation is found to be eligible for the visa, the visa will be reinstated with no need for reapplication. However, with the exception of provisional revocations, an applicant whose visa has been revoked must apply for another visa, at which time his or her eligibility for the visa will be adjudicated.

## Regulatory Findings

*Administrative Procedure Act*

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

*Regulatory Flexibility Act/Executive Order 13272: Small Business.*

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule regulates individual aliens who hold nonimmigrant or immigrant visas, including employment-based visas. Because section 221(i) of the INA already grants the Secretary and consular officers authority to revoke visas in their discretion (an authority already exercised by the Secretary and designees), and this rule simply lifts a regulatory restriction on consular officers to exercise the same authority, the Department expects that any effect of this rule on small entities will be minimal.

*The Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

*The Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

*Executive Order 12866*

The Department of State has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of the proposed regulation justify its costs. The Department does not consider the rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of $100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities.

*Executive Order 13563*

The Department of State has considered this rule in light of Executive Order 13563, dated January 18, 2011, and affirms that this regulation is consistent with the guidance therein.

*Executive Orders 12372 and 13132: Federalism*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

*Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of section 5 of Executive Order 13175 do not apply to this rulemaking.

*Paperwork Reduction Act*

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

## List of Subjects in 22 CFR Part 41

Aliens, Foreign officials, Immigration, Passports and visas, students.

Accordingly, for the reasons set forth in the preamble, 22 CFR parts 41 and 42 are amended as follows:

## PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 1. The authority citation for section 41 continues to read as follows:

**Authority:** 8 U.S.C. 1104; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

■ 2. Section 41.122 is revised to read as follows:

### § 41.122 Revocation of visas.

(a) *Grounds for revocation by consular officers.* A consular officer, the Secretary, or a Department official to whom the Secretary has delegated this authority is authorized to revoke a nonimmigrant visa at any time, in his or her discretion.

(b) *Provisional revocation.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority may provisionally revoke a nonimmigrant visa while considering information related to whether a visa holder is eligible for the visa. Provisional revocation shall have the same force and effect as any other visa revocation under INA 221(i).

(c) *Notice of revocation.* Unless otherwise instructed by the Department, a consular officer shall, if practicable, notify the alien to whom the visa was issued that the visa was revoked or provisionally revoked. Regardless of delivery of such notice, once the revocation has been entered into the Department's Consular Lookout and Support System (CLASS), the visa is no longer to be considered valid for travel to the United States. The date of the revocation shall be indicated in CLASS and on any notice sent to the alien to whom the visa was issued.

(d) *Procedure for physically canceling visas.* A nonimmigrant visa that is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa, if the visa is available to the consular officer. The failure or inability to physically cancel the visa does not affect the validity of the revocation.

(e) *Revocation of visa by immigration officer.* An immigration officer is authorized to revoke a valid visa by physically canceling it in accordance with the procedure described in paragraph (d) of this section if:

(1) The alien obtains an immigrant visa or an adjustment of status to that of permanent resident;

(2) The alien is ordered excluded from the United States under INA 236, as in effect prior to April 1, 1997, or removed from the United States pursuant to INA 235;

(3) The alien is notified pursuant to INA 235 by an immigration officer at a port of entry that the alien appears to be inadmissible to the United States, and the alien requests and is granted permission to withdraw the application for admission;

(4) A final order of deportation or removal or a final order granting voluntary departure with an alternate order of deportation or removal is entered against the alien;

(5) The alien has been permitted by DHS to depart voluntarily from the United States;

(6) DHS has revoked a waiver of inadmissibility granted pursuant to INA 212(d)(3)(A) in relation to the visa that was issued to the alien;

(7) The visa is presented in connection with an application for admission to the United States by a person other than the alien to whom the visa was issued;

(8) The visa has been physically removed from the passport in which it was issued; or

(9) The visa has been issued in a combined Mexican or Canadian B–1/B–2 visa and border crossing identification card, and the immigration officer makes the determination specified in § 41.32(c) with respect to the alien's Mexican citizenship and/or residence or the determination specified in § 41.33(b) with respect to the alien's status as a permanent resident of Canada.

## PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 3. The authority citation for section 42 continues to read as follows:

**Authority:** 8 U.S.C. 1104 and 1182; Pub. L. 105–277; Pub. L. 108–449; 112 Stat. 2681–795 through 2681–801; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954, Pub. L. 106–279.

■ 4. Section 42.82 is revised to read as follows:

### § 42.82 Revocation of visas.

(a) *Grounds for revocation by consular officers.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority is authorized to revoke an immigrant visa at any time, in his or her discretion.

(b) *Provisional revocation.* A consular officer, the Secretary, or any Department official to whom the Secretary has delegated this authority may provisionally revoke an immigrant visa while considering information related to whether a visa holder is eligible for the visa. Provisional revocation shall have the same force and effect as any other visa revocation under INA 221(i).

(c) *Notice of revocation.* Unless otherwise instructed by the Department, a consular officer shall, if practicable, notify the alien to whom the visa was issued that the visa was revoked or provisionally revoked. Regardless of delivery of such notice, once the revocation has been entered into the Department's Consular Lookout and Support System (CLASS), the visa is no longer to be considered valid for travel to the United States. The date of the revocation shall be indicated in CLASS and on any notice sent to the alien to whom the visa was issued.

(d) *Procedure for physically canceling visas.* An immigrant visa that is revoked shall be canceled by writing or stamping the word "REVOKED" plainly across the face of the visa, if the visa is available to the consular officer. The failure or inability to physically cancel the visa does not affect the validity of the revocation.

Dated: April 18, 2011.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs, Department of State.*

[FR Doc. 2011–10077 Filed 4–26–11; 8:45 am]

BILLING CODE 4710–06–P

---

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### 32 CFR Part 199

**[Docket ID: DOD–2011–HA–0029; RIN 0720–AB48]**

## Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Young Adult

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule implements Section 702 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (NDAA for FY11). It establishes the TRICARE Young Adult (TYA) program to provide an extended medical coverage opportunity to most unmarried children under the age of 26 of uniformed services sponsors. The TRICARE Young

Adult program is a premium-based program.

**DATES:** This interim final rule is effective April 27, 2011. Written comments received at the address indicated below by June 27, 2011 will be considered and addressed in the final rule.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods: Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160. Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from dependents of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Mark Ellis, TRICARE Management Activity, TRICARE Policy and Operations Directorate, telephone (703) 681–0039. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction and Background

The purpose of this interim final rule is to establish the TRICARE Young Adult program implementing Section 702 of the Ike Skelton NDAA for FY 2011 (Pub. L. 111–383) to provide medical coverage to unmarried children under the age of 26 who no longer meet the age requirements for TRICARE eligibility (age 21, or 23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense), and who are not eligible for medical coverage from an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). If qualified, they can purchase TRICARE Standard/Extra or TRICARE Prime benefits coverage. The particular TRICARE plan available depends on the military sponsor's eligibility and the availability of the TRICARE plan in the dependent's geographic location.

## II. Provisions of the Rule Regarding the TRICARE Young Adult Program

A. *Establishment of the TRICARE Young Adult Program* (paragraph 199.26(a)). This paragraph describes the nature, purpose, statutory basis, scope, and major features of TRICARE Young Adult, a full cost, premium-based medical coverage program made available for purchase worldwide. TYA is similar to young adult coverage under the Patient Protection and Affordable Care Act, but reflects a number of differences between TRICARE and typical civilian health care plans. Among these is that TYA is a full cost premium based program; it is limited to unmarried dependent children; and the dependent child must not be eligible for medical coverage from an eligible employer-sponsored plan (an exclusion that does not expire on January 1, 2014, but is permanent). TRICARE Young Adult is codified in Title 10, United States Code, Section 1110b.

The major features of the program include making coverage available for purchase at a premium which will represent the full cost, including reasonable administrative costs, as determined on an appropriate actuarial basis for coverage. There will be various premiums depending on whether the dependent's sponsor is active duty, retired or eligible under another plan such as TRICARE Reserve Select or TRICARE Retired Reserve, and the adult dependent's health coverage—TRICARE Standard or, for those eligible and where available, TRICARE Prime. The rules and procedures otherwise outlined in Part 199 of 32 CFR relating to the operation and administration of the TRICARE program based on the sponsor's status and health coverage plan will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TRICARE Young Adult coverage. Young adult dependents of members on active duty for more than 30 days are eligible for benefits under the TRICARE ECHO program under section 199.5 of this Part.

The TRICARE Dental Program (§ 199.13 of this Part) and the TRICARE Retiree Dental Program (§ 199.22 of this Part) are not included as part of TYA.

Under TRICARE Young Adult, qualified young adult dependents may purchase individual TRICARE coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium at the time of enrollment. When coverage becomes effective, a TRICARE Young Adult purchaser receives the TRICARE benefits according to the rules governing the TRICARE program that the enrollee qualified for and selected based on the uniformed services sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired plan in his or her geographic location. The rules and procedures otherwise outlined in the TRICARE Regulation (Part 199) relating to the operation and administration of the TRICARE programs will apply for cost-shares, deductibles, and catastrophic caps upon purchasing TRICARE Young Adult coverage. The young adult dependent's cost-shares, deductibles, and catastrophic caps will be based on the sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and whether the dependent has purchased TRICARE Standard/Extra or Prime coverage. TRICARE Young Adult dependents are provided access priority for care in military treatment facilities based on their uniformed services sponsor's status and the selection of health plan.

The Continued Health Care Benefits Program (see § 199.20) shall be made available to all young adult dependents after aging out of the TRICARE Young Adult program or who otherwise lose their eligibility for the TRICARE Young Adult program.

B. *Qualifications for TYA coverage* (paragraph 199.26(b)). This paragraph defines the statutory conditions under which unmarried children qualify as young adult dependents under the TRICARE Young Adult program. To qualify as a young adult dependent, the dependent must be under the age of 26, not be otherwise eligible for another TRICARE program, and not be eligible for medical coverage from an eligible employer-sponsored plan (as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986). The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, the managed care support contractors have the responsibility to validate a dependent's qualifications to purchase TRICARE Young Adult coverage.

C. *TRICARE Young Adult premiums* (paragraph 199.26(c)). Qualified young adult dependents are charged premiums for coverage under TRICARE Young Adult that represent the full cost of providing TRICARE benefits under this program, including the reasonable costs of administration of the program. The total annual premium amounts shall be determined by the Assistant Secretary of Defense for Health Affairs (ASD(HA)) using an appropriate actuarial basis and

are established and updated annually, on a calendar year basis, by the ASD(HA) for qualified young adult dependents.

TRICARE YOUNG ADULT PREMIUMS—CALENDAR YEAR 2011

| TRICARE program | Monthly premium |
|---|---|
| TRICARE Standard/Extra Plans | $186 |
| TRICARE Prime Plans ..... | 213 |

A premium shall be charged for each individual qualified young adult dependent regardless of whether a sponsoring member has more than one young adult dependent child who qualifies or purchases coverage under the TRICARE Young Adult program. The cost shares for TRICARE Standard/Extra or Prime programs in which the adult child is enrolled shall be based on the status of the dependent's sponsor. Because of the differences in cost-shares among the programs and status of the sponsor, there will be a different premium for TRICARE Standard and TRICARE Prime. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to the same demographic population as those enrolled in TRICARE Young Adult as determined by the ASD(HA). TRICARE Young Adult premiums shall be based on the actual costs of providing benefits to TRICARE Young Adult dependents during the preceding years if the population of Young Adult dependents enrolled in TRICARE Young Adult is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TRICARE Young Adult premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of dependents over the age 21 up to age of 26 in order to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program by the government. Additionally, premium adjustments may be made to cover the prospective costs of any significant program changes.

D. *Procedures* (paragraph 199.26(d)). The Director, TRICARE Management Activity (TMA) will establish procedures for administration of TYA. These will include procedures to purchase individual coverage, such as a request in an approved format, along with an initial payment of the applicable premium. Applicants must also certify that they meet the statutory qualifications to purchase coverage under this program. Additional procedures will be established for a qualified young adult dependent to purchase TRICARE Young Adult coverage with an effective date immediately following the last effective date of coverage under which they previously qualified in another TRICARE program.

There will be open enrollment so that a qualified young adult dependent may purchase TRICARE Young Adult coverage at any time. The effective date of coverage for TRICARE Standard will coincide with the first day of a month after the date the application and required payment is received. The effective date of coverage for TRICARE Prime will be first day of the second month after the month in which application and required payment is received. There will be a limited period for retroactive coverage. A qualified young adult dependent may elect to start coverage under the TRICARE Standard plan effective with the statutory start date of January 1, 2011, if the dependent was eligible as of that date. If retroactive coverage is elected then retroactive premiums must be paid back to the statutory start date of January 1, 2011. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, then coverage will not be retroactive and coverage will apply only prospectively beginning on the first day of the month after the date of the application. There shall be no retroactive coverage offered under any TRICARE Prime plan. No purchase of retroactive coverage may take place after September 30, 2011.

With respect to termination of coverage, a loss of eligibility or entitlement for medical benefits of the sponsor will result in termination of coverage for the dependent's TRICARE Young Adult coverage on the same date as the sponsor, unless otherwise authorized. Upon the death of an active duty sponsor, young adult age dependents may purchase TYA coverage up to the age of 26. If a Selected Reserve (Sel Res) or Retired Reserve member ends TRICARE Reserve Select (TRS) or TRICARE Retired Reserve (TRR) coverage, respectively, eligibility for the young adult dependent to purchase coverage under TRICARE Young Adult also ends. If a Sel Res sponsor dies while enrolled in TRS, the otherwise eligible adult age dependent can purchase TYA coverage up to 6 months after the death of the sponsor. If a Retired Reserve sponsor dies while enrolled in TRR, the otherwise eligible young adult dependent may continue to purchase TYA coverage until the date on which the deceased sponsor would have turned age 60. If the Retired Reserve sponsor was not enrolled in TRR at the time of death, there is no eligibility to purchase TYA coverage until the sponsor would have turned age 60. At that point, the young adult dependent qualifies as a dependent of a deceased retired sponsor and can purchase coverage up to the age of 26.

Coverage will terminate whenever a dependent ceases to meet the qualifications for the program. Claims will be denied effective with the termination date. In addition, covered dependents may terminate coverage at any time by submitting a completed request in the appropriate format. Dependents whose coverage under TRICARE Young Adult terminates for failure to pay premiums in accordance with program requirements will not be allowed to purchase coverage again under TRICARE Young Adult for a period of one year following the date of their coverage termination. This ineligibility period shall be known as a "lockout" period. A request for a waiver of the "lockout" period may be granted by the Director, TRICARE Management Activity, based on extraordinary circumstances beyond the control of the adult dependent which resulted in inability to make payments in accordance with program requirements. The Director may allow a 90-day grace period for payment to be made. However, if payment is not made by the 90th day, then coverage will be deemed to have terminated as of the last day of the month in which an appropriate payment was made and no claims may be paid for care rendered after the date of termination. Upon termination of eligibility to purchase TYA coverage, qualified dependents may purchase coverage under the Continued Health Care Benefit Program for up to 36 months except if locked out of TYA. Upon application and payment of appropriate premiums, a young adult dependent who has already purchased coverage under any of the plans offered under TYA may change to another TRICARE program for which the dependent is eligible. Eligibility is based on the sponsor's status and the dependent's geographic location.

E. *Preemption of State laws* (paragraph 199.26(e)). This paragraph provides that the preemptions of State and local laws established for the TRICARE program also apply to

TRICARE Young Adult. Any State or local law or regulation pertaining to health insurance, prepaid health plans, or other health care delivery, administration, and financing methods is preempted and does not apply in connection with TRICARE Young Adult.

F. *Administration* (paragraph 199.26(f)). This paragraph provides that the Director, TRICARE Management Activity, may establish other administrative processes and procedures necessary for the effective administration of TRICARE Young Adult.

**III. Regulatory Procedures**

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small entities. This interim final rule will not have an impact on the economy greater than $100 million annually. Further, it will not have a major impact as that term is used under the Congressional Review Act nor will have a significant impact on a substantial number of small entities. This rule, however, does address novel policy issues relating to implementation of a new medical benefits program for certain dependents of the uniformed services. Thus, this rule has been reviewed by the Office of Management and Budget under E.O. 12866.

*Paperwork Reduction Act of 1995*

Section III of this interim final rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

*Title:* TRICARE Young Adult Application.

*Type of Request:* Revision.

*Number of Respondents:* 60,000.

*Responses per Respondent:* Estimated responses are on average two per respondent during the term of their TRICARE Young Adult coverage. Respondents will complete the application upon applying for, changing, or terminating their TRICARE Young Adult coverage. Not all respondents will change their coverage, and others may choose to let their coverage lapse or stop paying premiums instead of submitting a termination request.

*Annual Responses:* 120,000.

*Average Burden Per Response:* The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Annual Burden Hours:* 30,000 hours.

*Needs and Uses:* To evaluate eligibility of young adult dependents applying for extended dependent coverage under the TRICARE Young Adult program (10 U.S.C. 1110b).

*Affected Public:* Young adult dependents applying for, changing, or terminating their extended medical coverage under the TRICARE Young Adult program.

*Frequency:* Whenever the respondent wishes to apply for extended dependent coverage under the TRICARE Young Adult program, when the respondent wishes to change their coverage under the TRICARE Young Adult program, or when the respondent wishes to terminate their coverage under the TRICARE Young Adult program.

*Respondent's Obligation:* Required to obtain or retain benefits. Young adult dependents wishing to purchase extended dependent coverage will complete the application to apply for, change, or terminate medical coverage under the TRICARE Young Adult program. Respondents will complete the requested information. Disclosure is voluntary; however, failure to provide the information will result in the denial of the application.

*OMB Desk Officer*

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to the TRICARE Management Activity, 5111 Leesburg Pike, Suite 810A, Falls, Church, VA 22041. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

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

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to TRICARE Management Activity, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041, Mark Ellis, (703) 681–0039.

*Additional Regulatory Procedures*

We have examined the impact(s) of the interim final rule under Executive Order 13132 and it does not have policies that have federalism implications that would 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. The preemption provisions in the rule conform to law and long-established TRICARE policy. Therefore, consultation with State and local officials is not required.

This rule is being published as an interim final rule with comment period as an exception to our standard practice of first soliciting public comment under a proposed rule, in order to comply with the requirements of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111–383, Section 702, which was enacted on January 7, 2011. This section provides "the amendments by this section shall take effect on January 1, 2011. The Secretary of Defense shall prescribe an interim final rule with respect to such amendments, effective not later than January 1, 2011." In order to provide coverage as soon as possible consistent

with statutory requirement, and as proscribed by the provision, the ASD(HA) has determined that following the standard practice is unnecessary, impractical, and contrary to the public interest. Public comments are welcome and will be considered before publication of the final rule.

**List of Subjects in 32 CFR Part 199**

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

## PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.2(b) is amended by adding in alphabetical order the definition of "TRICARE Young Adult" to read as follows:

### § 199.2 Definitions.

* * * * *

(b) * * *

*TRICARE Young Adult.* The program authorized by and described in § 199.26 of this part.

* * * * *

■ 3. Section 199.26 is added to read as follows:

### § 199.26 TRICARE Young Adult.

(a) *Establishment.* The TRICARE Young Adult (TYA) program offers the medical benefits provided under the TRICARE programs to qualified unmarried adult children who do not otherwise have eligibility for medical coverage under a TRICARE program at age 21 (23 if enrolled in a full-time course of study at an institution of higher learning approved by the Secretary of Defense) and are under age 26.

(1) *Purpose.* As specified in paragraph (c) of this section, TRICARE Young Adult is a premium-based health plan that is available for purchase by any qualified adult child as that term is defined in paragraph (b) of this section. The TRICARE Young Adult program allows a qualified adult child to purchase TRICARE coverage.

(2) *Statutory authority.* TRICARE Young Adult is authorized by 10 U.S.C. 1110b.

(3) *Scope of the program.* TRICARE Young Adult is geographically applicable to the same extent as specified in section 199.1(b)(1) of this part.

(4) *Major features of TRICARE Young Adult.* (i) *TRICARE rules applicable.*

(A) Unless specified in this section or otherwise prescribed by the ASD (HA), provisions of this Part apply to TRICARE Young Adult.

(B) The TRICARE Dental Program (§ 199.13 of this part) and the TRICARE Retiree Dental Program (§ 199.22 of this part) are not covered under TRICARE Young Adult.

(C) TRICARE Standard is available to all TYA-eligible young adult dependents. TYA enrollees in TRICARE Standard may use TRICARE Extra (under § 199.17(e) of this Part).

(D) TRICARE Prime is available to TYA-eligible young adult dependents of sponsors to the same extent it is available to those sponsors' dependents who do not exceed the age requirements of § 199.3 of this part, provided that TRICARE Prime is available in the geographic location where the TYA enrollee resides. This applies to TYA-eligible:

(*1*) Dependents of sponsors on active duty for more than 30 days or covered by TAMP (under § 199.3(e));

(*2*) Dependents of sponsors who are retired members eligible for TRICARE Prime; and

(*3*) Survivors of members who died while on active duty for more than 30 days or while receiving retired or retainer pay.

(ii) *Premiums.* TRICARE Young Adult coverage is a premium based program that an eligible young adult dependent may purchase. There is only individual coverage, and a premium shall be charged for each dependent even if there is more than one qualified dependent in the military sponsor's family that qualifies for TRICARE Young Adult coverage. Dependents qualifying for TRICARE Young Adult status can purchase individual TRICARE Standard or Prime coverage (as applicable) according to the rules governing the TRICARE program for which they are qualified on the basis of their military sponsor's status (active duty, retired, Selected Reserve, or Retired Reserve) and the availability of a desired plan in their geographic location. Premiums shall be determined in accordance with paragraph (c) of this section.

(iii) *Procedures.* Under TRICARE Young Adult, qualified dependents under paragraph (b) of this section may purchase individual TRICARE coverage by submitting a completed request in the appropriate format along with an initial payment of the applicable premium. Procedures for purchasing coverage and paying applicable premiums are prescribed in paragraph (d) of this section.

(iv) *Benefits.* When their TRICARE coverage becomes effective, qualified beneficiaries receive the benefit of the TRICARE program that they selected, including, if applicable, access to military treatment facilities and pharmacies. TRICARE Young Adult coverage features the per service cost share, deductible and catastrophic cap provisions based on program selected, i.e., the TRICARE Standard/Extra program or the TRICARE Prime program, as well as the status of their military sponsor. Access to military treatment facilities under the system of access priorities in section 199.17(d)(1) of this Part is also based on the program selected as well as the status of the military sponsor. Premiums are not credited to deductibles or catastrophic caps.

(v) *Transition period.* During fiscal year 2011, the TYA program will include only TRICARE Standard program coverage.

(b) *Eligibility for TRICARE Young Adult coverage.*—(1) *Young adult dependent.* A young adult dependent qualifies to purchase TRICARE Young Adult coverage if the dependent meets the following criteria:

(i) Would be a dependent child under section 199.3 of this Part but for exceeding the age limit under that section; and

(ii) Is a dependent under the age of 26; and

(iii) Is not enrolled, or eligible to enroll, for medical coverage in an eligible employer-sponsored health plan as defined in section 5000A(f)(2) of the Internal Revenue Code of 1986; and

(iv) Is not otherwise eligible under section 199.3 of this Part; and

(v) Is not a member of the uniformed services.

(2) The dependents' sponsor is responsible for keeping the Defense Enrollment Eligibility Reporting System (DEERS) current with eligibility data through the sponsor's Service personnel office. Using information from the DEERS, the managed care support contractors have the responsibility to validate a dependent's qualifications to purchase TRICARE Young Adult coverage.

(c) *TRICARE Young Adult premiums.* Qualified young adult dependents are charged premiums for coverage under TRICARE Young Adult that represent the full cost of the program, including reasonable administrative costs, as determined by the ASD(HA) utilizing an appropriate actuarial basis for the provision of TRICARE benefits for the TYA-eligible beneficiary population. Separate premiums shall be established for TRICARE Standard and Prime plans.

There may also be separate premiums based on the uniformed services sponsor's status. Premiums are to be paid monthly. The monthly rate for each month of a calendar year is one-twelfth of the annual rate for that calendar year.

(1) *Annual establishment of rates.* —(i) TRICARE Young Adult monthly premium rates shall be established and updated annually on a calendar year basis by the ASD(HA) for TRICARE Young Adult individual coverage.

(ii) The appropriate actuarial basis used for calculating premium rates shall be one that most closely approximates the actual cost of providing care to a similar demographic population (based on age and health plans) as those enrolled in TRICARE Young Adult, as determined by the ASD(HA). TRICARE Young Adult premiums shall be based on the actual costs of providing benefits to TYA dependents during the preceding years if the population of TYA enrollees is large enough during those preceding years to be considered actuarially appropriate. Until such time that actual costs from those preceding years become available, TRICARE Young Adult premiums shall be based on the actual costs during the preceding calendar years for providing benefits to the population of similarly aged dependents to make the underlying group actuarially appropriate. An adjustment may be applied to cover overhead costs for administration of the program.

(2) *Premium adjustments.* In addition to the determinations described in paragraph (c)(1) of this section, premium adjustments may be made prospectively for any calendar year to reflect any significant program changes mandated by legislative enactment, including but not limited to significant new programs or benefits.

(d) *Procedures.* The Director, TRICARE Management Activity (TMA), may establish procedures for the following.

(1) *Purchasing coverage.* Procedures may be established for a qualified dependent to purchase individual coverage. To purchase TRICARE Young Adult coverage for effective dates of coverage described below, qualified dependents must submit a request in the appropriate format, along with an initial payment of the applicable premium required by paragraph (c) of this section in accordance with established procedures.

(i) *Continuation coverage.* Procedures may be established by the Director, TRICARE Management Activity for a qualified dependent to purchase TRICARE Young Adult coverage with an effective date immediately following the date of termination of coverage under another TRICARE program. Application for continuation coverage must be made within 30 days of the date of termination of coverage under another TRICARE program.

(ii) *Open enrollment.* Procedures may be established for a qualified dependent to purchase TRICARE Young Adult coverage at any time. The effective date of coverage will coincide with the first day of a month.

(iii) *Retroactive coverage.* A qualified young adult dependent may elect retroactive TRICARE Standard coverage effective as of January 1, 2011 if dependent was eligible as of that date. In the case of a young adult dependent who was not eligible as of January 1, 2011, but became eligible after that date but prior to the date of enrollment, the young adult dependent may elect retroactive TRICARE Standard coverage effective as of the date of eligibility. If retroactive coverage is elected, retroactive premiums must be paid for the time period between initial eligibility and the date of the election. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, coverage will not be retroactive and coverage will apply only prospectively under the procedures set forth for open enrollment. No purchase of retroactive coverage may take place after September 30, 2011. Coverage under TRICARE Prime may not be made retroactively.

(2) *Termination of coverage.* (i) Loss of eligibility or entitlement for coverage by the sponsor will result in termination of the dependent's TRICARE Young Adult coverage unless otherwise specified. The effective date of the sponsor's loss of eligibility for care will also be the effective date of termination of benefits under the TYA program unless specified otherwise.

(A) *Active Duty Military Sponsor.* TYA coverage ends effective the date of military sponsor's separation from military service. Upon the death of an active duty sponsor, dependents eligible for Transitional Survivor coverage may purchase TYA coverage up to the age of 26.

(B) *Selected Reserve (Sel Res) Sponsor.* Sel Res sponsors must be currently enrolled in TRICARE Reserve Select (TRS) before a young adult dependent is eligible to purchase TYA. If TRS coverage is terminated by the sponsor, TYA coverage ends effective the same termination date as the sponsor. If the Sel Res sponsor dies while enrolled in TRS, the young adult dependent is eligible to purchase TYA coverage for six months after the date of death of the Sel Res sponsor, if otherwise eligible.

(C) *Retired Reserve Sponsor.* Retired Reserve members not yet eligible for retired or retainer pay must be enrolled in TRICARE Retired Reserve (TRR) to establish TYA eligibility for their young adult dependents. If TRR coverage is terminated by the sponsor, the TYA coverage for the young adult dependent ends effective the same date as the sponsor's termination of coverage under TRR. If the retired reserve sponsor dies while enrolled in TRR, the young adult dependent may continue to purchase TYA coverage until the date on which the deceased member would have attained age 60, as long as otherwise eligible. If the Retired Reserve member dies and is not enrolled in TRR, there is no eligibility for TYA coverage until the sponsor would have reached age 60. On the date the military sponsor would have reached 60, a young adult dependent who otherwise qualifies for TYA qualifies as a dependent of a deceased retired sponsor and can purchase TYA coverage.

(ii) Failure of a young adult dependent to maintain the eligibility qualifications in paragraph (b) of this section shall result in the termination of coverage under the TYA program. The effective date of termination shall be the date upon which the adult young dependent failed to meet any of the perquisite qualifications. If a subsequent change in circumstances re-establishes eligibility (such as losing eligibility for an eligible employer-sponsored plan), the young adult dependent may re-enroll for coverage under the TYA program.

(iii) Termination of coverage results in denial of claims for services with a date of service after the effective date of termination.

(iv) Covered dependents may request termination of coverage at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(3) *Lockout.* Dependents whose coverage under TRICARE Young Adult terminates for failure to pay premiums will not be allowed to purchase coverage again under TYA for a period of one year following the effective date of termination. Dependents who are terminated for failure to pay may request a waiver of the lockout from the Director, TRICARE Management Activity if extraordinary circumstances, as determined by the Director, prevented the dependent from being able to pay the premium. The Director may also provide a grace period not to exceed 90 days after the end of the month during which the last full

premium was paid, during which a young adult dependent who would otherwise be subject to a lockout may be reinstated by the payment of all unpaid premiums. After 90 days, any waiver of a lockout by the Director shall allow the young adult dependent to re-enroll but not to receive retroactive coverage.

(4) *Eligibility for the Continued Health Care Benefit Program.* Upon termination of eligibility to purchase TYA coverage, dependents may purchase coverage for up to 36 months through the Continued Health Care Benefit Program under section 199.20 of this Part unless locked out of TYA.

(5) *Changing Coverage.* Upon application and payment of appropriate premiums, qualified dependents already enrolled in and who are current in their premium payments may elect to change to another TRICARE program for which the qualified dependent is eligible based on the sponsor's eligibility and the geographic location of the qualified young adult dependent. The Director, TMA shall establish administrative processes for this change in program enrollment; however, no change shall be effective until the applicable premium has been paid.

(e) *Preemption of State Laws.*—The preemption provisions of § 199.17(a)(7) of this part are applicable to the TYA program.

(f) *Administration.* The Director, TRICARE Management Activity, may establish other processes, policies and procedures for the effective administration of TRICARE Young Adult and may authorize exceptions to requirements of this section, if permitted by law, based on extraordinary circumstances.

Dated: April 22, 2011.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2011–10241 Filed 4–25–11; 11:15 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2011–0260]**

**RIN 1625–AA00**

## Safety Zone; Red River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20′00″ N, extending the entire width of the river. This safety zone is needed to protect persons and vessels from safety hazards associated with flooding occurring on the Red River. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

**DATES:** This rule is effective in the CFR from April 27, 2011 through 11:59 p.m. on July 15, 2011. This rule is effective with actual notice from 12:01 a.m. on April 8, 2011, until 11:59 p.m. on July 15, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0260 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0260 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Documents will also be available for inspection or copying at Coast Guard Sector Upper Mississippi River, 1222 Spruce Street, Suite 7.103, St. Louis, MO 63103 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Lieutenant Commander (LCDR) Scott Stoermer, Sector Upper Mississippi River, Coast Guard at (314) 269–2540 or *Scott.A.Stoermer@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be contrary to public interest to publish an NPRM as immediate action is necessary to protect the public and property from the dangers associated with flooding emergencies. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying its effective date would be contrary to public interest because immediate action is needed to protect vessels and mariners from the safety hazards associated with flooding emergencies.

### Basis and Purpose

On April 8, 2011, the Captain of the Port Upper Mississippi River deemed navigation on the Red River unsafe due to severe flooding and has closed navigation on the Red River bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties in North Dakota, extending the entire width of the river. To provide for the safety of the public, the Coast Guard will temporarily restrict access to this section of the Red River while conditions remain dangerous.

### Discussion of Rule

The Coast Guard is establishing a temporary safety zone for all waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20′00″ N, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except those persons and vessels specifically authorized by the Captain of the Port Sector Upper Mississippi River. This rule is effective from 12:01 a.m. April 8, 2011 until 11:59 p.m. July 15, 2011. This temporary safety zone will be enforced while conditions remain dangerous. The Captain of the Port Sector Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone changes and enforcement periods.

### Regulatory Evaluation

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

the Department of Homeland Security (DHS).

This rule will be in effect until canceled and notifications to the marine community will be made through broadcast notice to mariners and the River Industry Bulletin Board (RIBB) at *http://www.ribb.com.*

**Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit all waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20′00″ N, extending the entire width of the river on and after April 8, 2011. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: (1) This rule will only be in effect for a limited period of time.

If you are a small business entity and are significantly affected by this regulation, please contact LCDR Scott Stoermer, Sector Upper Mississippi River, at (314) 269–2540.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

**Energy Effects**

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

**Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA).

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental

Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–0260 is added to read as follows:

**§ 165.T09–0260 Safety Zone; Red River.**

(a) *Location.* The following area is a safety zone: Waters of the Red River in the State of North Dakota, including those portions of the river bordered by Richland, Cass, Traill, Grand Forks, Walsh, and Pembina Counties, plus those in Minnesota South of a line drawn across latitude 46°20′00″ N, extending the entire width of the river.

(b) *Effective date.* This rule is effective from 12:01 a.m. April 8, 2011 until 11:59 p.m. July 15, 2011.

(c) *Periods of Enforcement.* This rule will be enforced from April 8, 2011 until 11:59 p.m. May 15, 2011 while dangerous flooding conditions exist. The Captain of the Port Sector Upper Mississippi River will inform the public through broadcast notice to mariners of any changes to enforcement periods.

(d) *Regulations.* (1) In accordance with the general regulations in § 165, Subpart C of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Sector Upper Mississippi River and Marine Safety Unit Duluth or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Sector Upper Mississippi River or a designated representative. The Captain of the Port Sector Upper Mississippi River representative may be contacted at (314) 269–2332.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Sector Upper Mississippi River or their designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: April 8, 2011.

**S.L. Hudson,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.*

[FR Doc. 2011–10147 Filed 4–26–11; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF EDUCATION

### 34 CFR Subtitle B, Chapter II

**[Docket ID ED–2010–OESE–0005]**

**RIN 1810–AB10**

## Race to the Top Fund

**ACTION:** Final requirements.

**SUMMARY:** The U.S. Secretary of Education (Secretary) adopts as final, without changes, the interim final requirements for the Race to the Top Fund to incorporate and make binding for Phase 2 of the competition State budget guidance.

**DATES:** These requirements are effective May 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** James Butler, Telephone: 202–205–3775 or by e-mail: *racetothetop@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:**

On April 2, 2010, the Secretary published interim final requirements for the Race to the Top Fund in the **Federal Register** (75 FR 16668). The interim final requirements became effective April 2, 2010. At the time the interim final requirements were published, the Secretary requested public comment on the interim final requirements.

In the interim final requirements, the Secretary made budget ranges for the Race to the Top Fund, which were originally included in the Race to the Top Fund NIA for fiscal year (FY) 2010, published in the **Federal Register** on November 18, 2009 (74 FR 59836), binding on applicants. In developing the budget ranges, the Department grouped the States into five categories by ranking every State according to its share of the national population of children ages 5 through 17 and identifying natural breaks in the population numbers. The Department then developed overlapping budget ranges for each category based on the student population data.

As explained in the preamble to the interim final requirements (75 FR 16668, 16669), the Secretary made the budget ranges a requirement in response to the unexpected budget requests received in Phase 1 of the Race to the Top competition, which varied widely and proposed, for the most part, budgets that were well above the suggested funding ranges. Additionally, the Department performed an analysis and did not find a relationship between States' scoring ranks in Phase 1 and the extent to which States exceeded the Department's suggested budget ranges. In balancing the need to fund high-quality reform plans and to ensure that a sufficient number of States received grants to serve as models of change for the Nation with the discrete amount of funding available, the Secretary determined that it was essential to make the budget ranges binding on applicants.

There are no differences between the interim final requirements and these final requirements.

**Analysis of Comments and Changes**

In response to our invitation in the interim final requirements, one commenter submitted comments.

Generally we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition we do not address general comments that raised concerns not directly related to the interim final requirements.

*Comment:* The commenter raised concerns about the impact of making the budget ranges mandatory on States for Phase 2 of the Race to the Top competition without first considering public comments. The commenter stated that the budget caps would force States to propose less ambitious activities than those proposed in their Phase 1 applications, and that this in turn would harm their ability to undertake the meaningful reform efforts sought under the Race to the Top program. The commenter also noted that limiting States' budgets would in turn limit the amount of funds that local educational agencies (LEAs), particularly small LEAs, would receive, thereby undercutting the capacity of those LEAs to implement bold reform plans. Additionally, the commenter expressed concern with the timing of the release of the interim final requirements, April 2, 2010, contending that States would have far too little time to effectively alter their Phase 1

applications to stay within the budget ranges before the Phase 2 application deadline of June 1, 2010. Finally, the commenter expressed concern with the fairness of creating such a requirement in light of the two Race to the Top Phase 1 winners that received awards in excess of their suggested budget caps. The commenter suggested that this lack of equitability in award amounts between Phase 1 and Phase 2 grantees would hinder the Department's ability to evaluate the effectiveness of the program.

*Discussion:* As explained in detail in the preamble to the interim final requirements, the Department did not have sufficient time to complete notice-and-comment rulemaking on the interim final requirements given that all funds under the Race to the Top program were required to be obligated by September 30, 2010. Completing notice-and-comment rulemaking would have taken four to six months, and, in consideration of the time needed to conduct Phase 2 of the competition, the time States needed to draft applications, and the impending September 30th American Recovery and Reinvestment Act of 2009 (ARRA) obligation deadline, we concluded that it would be impracticable and contrary to the public interest for the Department to complete notice-and-comment rulemaking.

In deciding whether to make the budget ranges binding on applicants, we considered whether States would be able to propose comprehensive and successful reform plans within the proposed budget ranges. Because we did not find a relationship between States' scoring ranks in Phase 1 and the extent to which States exceeded the Department's suggested budget ranges, we concluded that States could, in fact, develop comprehensive reform plans that met the Race to the Top selection criteria. We disagree with the commenter that States that submitted applications in Phase 1 were automatically forced to propose less ambitious activities in their Phase 2 applications. Requiring States to limit their budget requests only required State staff to make strategic decisions about where Race to the Top funds were most needed and where they could coordinate, reallocate, or repurpose other Federal, State, and local sources of funding to support Race to the Top goals, as evaluated under selection criterion (A)(2)(i)(d). While capping the amount of funds that a State could request necessarily limited the 50 percent of Race to the Top funds required to flow to participating LEAs under section 14007 of the ARRA, States could augment the amount of funds available for participating LEAs from the State portion of the award.

The Race to the Top competition, even with the budget caps, made available the largest amounts of funding ever offered to States through a Department of Education discretionary grant program. We believe these amounts were sufficient to ensure a robust competition and to stimulate comprehensive education reform throughout the country.

Applicants had approximately two months from the announcement of the requirement that States conform to the previously suggested budget ranges until the application submission deadline for Phase 2. While we recognize that it would have been helpful to give applicants more time between the announcement of the requirement and the Phase 2 application deadline, we could not make the final decision about whether to make the budget caps binding until after the Phase 1 competition was complete, and we had the opportunity to analyze applicants' budget requests and scores. Specifically, we needed the results from the Phase 1 competition to investigate whether there was a relationship between the amount of funds requested and a State's rank in Phase 1 to ensure that making the budget ranges binding would not limit a State's ability to propose a successful reform plan in Phase 2. Additionally, applicants in Phase 1 of the competition had two months from the date of publication of the NIA to prepare their applications, just as applicants in Phase 2 had after publication of the budget requirements.

Finally, we do not believe that there will be difficulty comparing results across Phase 1 and Phase 2 grantees. The program is not focused on dollar-for-dollar spending, but rather on improved educational outcomes in winning States.

*Changes:* None.

**Final Requirements**

For the reasons discussed previously, the Secretary amends the Race to the Top Fund final requirements published in the **Federal Register** on November 18, 2009 (74 FR 59688, 59799) to include a new section under the heading Program Requirements, as follows:

*Budget Requirements:* For Phase 2 of the fiscal year 2010 competition, and for any subsequent competitions, the State's budget must conform to the following budget ranges: [1]

*Category 1*—$350–700 million: California, Texas, New York, Florida.

*Category 2*—$200–400 million: Illinois, Pennsylvania, Ohio, Georgia, Michigan, North Carolina, New Jersey.

*Category 3*—$150–250 million: Virginia, Arizona, Indiana, Washington, Tennessee, Massachusetts, Missouri, Maryland, Wisconsin.

*Category 4*—$60–175 million: Minnesota, Colorado, Alabama, Louisiana, South Carolina, Puerto Rico, Kentucky, Oklahoma, Oregon, Connecticut, Utah, Mississippi, Iowa, Arkansas, Kansas, Nevada.

*Category 5*—$20–75 million: New Mexico, Nebraska, Idaho, West Virginia, New Hampshire, Maine, Hawaii, Rhode Island, Montana, Delaware, South Dakota, Alaska, North Dakota, Vermont, Wyoming, District of Columbia.

The State should develop a budget that is appropriate for the plan it outlines in its application; however we will not consider a State's application if its request exceeds the maximum in its budget range.

*Program Authority:* American Recovery and Reinvestment Act of 2009, Division A, Section 14006, Public Law 111–5.

*Executive Order 12866*

Under Executive Order 12866, the Secretary must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may (1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or local programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive

[1] The Department developed budget ranges for each State by ranking every State according to its share of the national population of children ages 5 through 17 based on data from "Estimates of the Resident Population by Selected Age Groups for the United States, States, and Puerto Rico: July 1, 2008" released by the Population Division of the U.S. Census Bureau. The Department identified the natural breaks in the population data and then developed overlapping budget ranges for each category taking into consideration the total amount of funds available for awards.

order. The Secretary has determined that this regulatory action is not significant under section 3(f) of the Executive order.

We summarized the potential costs and benefits of these final requirements in the interim final requirements published in the **Federal Register** on April 2, 2010 at 75 FR 16668, 16670.

*Paperwork Reduction Act of 1995*

The final requirements do not contain new information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*Intergovernmental Review*

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides notification of our specific plans regarding budget requirements for this program.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *http://www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

Dated: April 21, 2011.

**Arne Duncan,**

*Secretary of Education.*

[FR Doc. 2011–10224 Filed 4–26–11; 8:45 am]

BILLING CODE 4000–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 52

**[EPA–HQ–OAR–2004–0014, FRL–9299–3]**

**RIN 2060–AQ73**

## Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions

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

**ACTION:** Notice of extension of comment period.

**SUMMARY:** EPA is announcing an extension of the public comment period on the interim rule titled, "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Interim Rule; Stay and Revisions." It published in the **Federal Register** on March 30, 2011. EPA is extending the comment period that originally closed on April 29, 2011, by an additional 32 days. The comment period will now close on May 31, 2011. EPA is extending the comment period because of a request we received, which is contained in the docket for this rulemaking.

**DATES:** *Comments.* Comments must be received on or before May 31, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0014, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2004–0014, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2004–0014. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions.* Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0014. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact Peter Keller, Air Quality Policy Division, U.S. EPA, Office of Air Quality Planning and Standards (C504–03), Research Triangle Park, North Carolina 27711, telephone number (919) 541–5339, facsimile number (919) 541–5509, electronic mail e-mail address: *keller.peter@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

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

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

information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2004–0014.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this notice will also be available on the World Wide Web (WWW). Following signature by the OAQPS Division Director, a copy of this notice will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr.*

Dated: April 22, 2011.

**Mary Henigin,**

*Acting Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2011–10192 Filed 4–26–11; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2010–0490; FRL–8869–6]**

## Aluminum tris (*O*-ethylphosphonate), Butylate, Chlorethoxyfos, Clethodim, et al.; Tolerance Actions

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with current Agency practice to describe more clearly the measurement and scope or coverage of the tolerances, EPA is making minor revisions to tolerance expressions for a number of pesticide active ingredients, including the insecticides chlorethoxyfos, clofentezine, cyromazine, etofenprox, fenbutatin-oxide, fosthiazate, propetamphos, and tebufenozide; the fungicide aluminum tris (*O*-ethylphosphonate); the herbicides butylate, clethodim, clomazone, fenoxaprop-ethyl, flumetsulam, flumiclorac pentyl, fluridone, glufosinate ammonium, lactofen, propyzamide, quinclorac, and pyridate; and the fungicide/bactericide oxytetracycline. Also, EPA is revoking the tolerances for aluminum tris (*O*-ethylphosphonate) on pineapple fodder and forage because they are not considered to be significant livestock feed items, and revising specific tolerance nomenclatures for aluminum tris (*O*-ethylphosphonate), clethodim, flumetsulam, and fluridone. In addition, EPA is removing several expired tolerances for aluminum tris (*O*-ethylphosphonate), etofenprox, propyzamide, and tebufenozide.

**DATES:** This regulation is effective April 27, 2011. Objections and requests for hearings must be received on or before June 27, 2011, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0490. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

**FOR FURTHER INFORMATION CONTACT:** Joseph Nevola, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8037; e-mail address: *nevola.joseph@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

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

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0490 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 27, 2011. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0490, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

## II. Background

*A. What action is the agency taking?*

In the **Federal Register** of July 28, 2010 (75 FR 44184) (FRL–8834–1), EPA issued a proposal to revise tolerance expressions for a number of pesticide active ingredients, including the insecticides chlorethoxyfos, clofentezine, cyromazine, etofenprox, fenbutatin-oxide, fosthiazate, propetamphos, and tebufenozide, the fungicides aluminum tris (*O*-ethylphosphonate) and fenarimol; the herbicides butylate, clethodim, clomazone, fenoxaprop-ethyl, flumetsulam, flumiclorac pentyl, fluridone, fomesafen, glufosinate ammonium, lactofen, propyzamide, quinclorac, and pyridate; and the fungicide/bactericide oxytetracycline. Also, EPA proposed to revoke the tolerances for aluminum tris (*O*-ethylphosphonate) on pineapple fodder and forage because they are not considered to be significant livestock feed items, and revise specific tolerance nomenclatures for aluminum tris (*O*-ethylphosphonate), clethodim, flumetsulam, and fluridone. In addition, EPA announced that the Agency would remove several expired tolerances for aluminum tris(*O*-ethylphosphonate), etofenprox, propyzamide, and tebufenozide. Also, the proposal of July 28, 2010 provided a 60-day comment period which invited public comment for consideration and for support of tolerance retention under FFDCA standards.

Since the proposal of July 28, 2010 (75 FR 44184), which included proposals to revise the tolerance expressions for fenarimol and fomesafen among other actions concerning multiple active ingredients, the introductory texts containing the tolerance expressions for fenarimol in 40 CFR 180.421(a) and fomesafen in 40 CFR 180.433(a) wererevised to describe measurement and coverage of the tolerances in the **Federal Register** of September 17, 2010 (75 FR 56892) (FRL–8844–6), and March 9, 2011 (76 FR 12877) (FRL–8858–5), respectively. Consequently, because no further actions on fenarimol and fomesafen are needed, none is taken herein.

In this final rule, EPA is revising tolerance expressions for aluminum tris (*O*-ethylphosphonate), butylate, chlorethoxyfos, clethodim, clofentezine, clomazone, cyromazine, etofenprox, fenbutatin-oxide, fenoxaprop-ethyl, flumetsulam, flumiclorac pentyl, fluridone, fosthiazate, glufosinate ammonium, lactofen, oxytetracycline, propetamphos, propyzamide, pyridate, quinclorac, and tebufenozide. The revisions are in accordance with current Agency practice to describe more clearly the measurement and scope or coverage of tolerances, including applicable metabolites and degradates. The revisions do not substantively change the tolerance or, in any way, modify the permissible level of residues permitted by the tolerance. Also, EPA is revoking the tolerances for aluminum tris (*O*-ethylphosphonate) on pineapple fodder and forage because they are not considered to be significant livestock feed items, and therefore the tolerances are no longer needed. In addition, EPA is revising specific tolerance nomenclatures for aluminum tris (*O*-ethylphosphonate), clethodim, flumetsulam, and fluridone. Also, EPA is removing several expired tolerances for aluminum tris (*O*-ethylphosphonate), etofenprox, propyzamide, and tebufenozide.

In response to the proposal published in the **Federal Register** of July 28, 2010 (75 FR 44184), EPA received no comments during the 60-day public comment period. Therefore, with the exception of fenarimol, EPA is finalizing the amendments proposed concerning these pesticide active ingredients in the **Federal Register** of July 28, 2010 (75 FR 44184). For a detailed discussion of the Agency's rationale for the revocation of tolerances, revision of tolerance expressions and tolerance nomenclatures, refer to the proposed rule of July 28, 2010 (75 FR 44184).

In addition, the Agency is making the following revisions in this final rule relating to chemical nomenclature to more accurately describe the substances at issue. None of the revisions changes which chemicals are subject to the tolerance expression in which they are contained. Also, because the Agency published a final rule in the **Federal Register** on December 8, 2010 (75 FR 76284) (FRL–8853–8) that resulted in 40 CFR 180.1 being changed so that a cross-reference, which deals with regional registrations in paragraph (c), was redesignated from § 180.1(m) to § 180.1(l), the Agency is making the following revisions in this final rule relating to cross-referencing § 180.1(l) in multiple sections for paragraph (c). Although these changes were not included in the proposed rule, under section 553(b)(3)(B) of the Administrative Procedure Act EPA finds there is good cause to include these changes in the final rule without further notice and comment because the changes have no practical impact on the use of or exposure to the chemicals.

1. *Clomazone.* The Agency inadvertently omitted two brackets in the chemical nomenclature for clomazone. Consequently, EPA is revising the nomenclature for clomazone in 40 CFR 180.425(a) from "2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone" to "2-[(2-chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone."

2. *Glufosinate ammonium.* The Agency did not propose to revise the chemical nomenclature for the metabolites of glufosinate to be more consistent with the nomenclature for the parent compound. Consequently, EPA is

revising the nomenclature for the metabolites of glufosinate to be more consistent with the parent compound in 40 CFR 180.473(a) from "2-acetamido-4-methylphosphinicobutanoic acid" to "2-(acetylamino)-4-(hydroxymethylphosphinyl)butanoic acid" and "3-methylphosphinicopropionic acid" to "3-(hydroxymethylphosphinyl)propionic acid;" and in 40 CFR 180.473(d) from "3-methylphosphinicopropionic acid" to "3-(hydroxymethylphosphinyl)propionic acid." This change is being made so that the nomenclatures of the parent ingredient and its metabolites will be consistent.

3. *Aluminum tris (O-ethylphosphonate), fenbutatin-oxide, lactofen, and propyzamide.* The Agency did not propose to cross-reference 40 CFR 180.1(l) in paragraph (c) for aluminum tris (*O*-ethylphosphonate), fenbutatin-oxide, lactofen, and propyzamide. Consequently, EPA is revising 40 CFR 180.415(c), 180.362(c), 180.432(c), and 180.317(c), by cross-referencing 40 CFR 180.1(l), to be more consistent with the final rule of December 8, 2010 (75 FR 76284) (FRL–8853–8).

*B. What is the Agency's authority for taking this action?*

EPA may issue a regulation establishing, modifying, or revoking tolerances under FFDCA section 408(e).

*C. When do these actions become effective?*

These actions, revisions of specific tolerance expressions, revocation of the tolerances for aluminum tris (*O*-ethylphosphonate) on pineapple fodder and forage, and revision of specific commodity terminologies (tolerance nomenclatures) become effective on the date of publication of this final rule in the **Federal Register**.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

## III. International Residue Limits

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

The Codex has not established a MRL for aluminum tris (*O*-ethylphosphonate), butylate, chlorethoxyfos, clomazone, fenoxaprop-ethyl, flumetsulam, flumiclorac pentyl, fluridone, fosthiazate, lactofen, oxytetracycline (pesticide use), propetamphos, propyzamide, pyridate, and quinclorac, or MRL on rice grain for etofenprox.

The Codex has established MRLs for clethodim in or on various commodities, some of which are different than the tolerances established for clethodim in the United States. However, the changes made herein in the U.S. tolerance expression for clethodim harmonizes U.S. tolerances with certain Codex MRLs for clethodim. For a detailed discussion, refer to the proposed rule of July 28, 2010 (75 FR 44184).

The Codex has established MRLs for clofentezine, cyromazine, fenbutatin-oxide, glufosinate ammonium, and tebufenozide in or on various commodities. Some MRLs are different than the tolerances established for clofentezine, cyromazine, fenbutatin-oxide, glufosinate ammonium, and tebufenozide in the United States. For a detailed discussion, refer to the proposed rule of July 28, 2010 (75 FR 44184).

## IV. Statutory and Executive Order Reviews

In this final rule, EPA revises tolerance expressions and revokes specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (*i.e.,* tolerance actions for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–13, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this final rule, the Agency

hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of the proposed rule). Furthermore, for the pesticides named in this final rule, the Agency knows of no extraordinary circumstances that exist as to the present revocations that would change EPA's previous analysis. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## V. Congressional Review Act

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

## List of Subjects in 40 CFR Part 180

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

Dated: April 15, 2011.

**Steven Bradbury,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

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

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

■ 2. In § 180.232 revise the introductory text in paragraph (a) to read as follows:

### § 180.232 Butylate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide butylate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only butylate, *S*-ethyl bis (2-methylpropyl) carbamothioate, in or on the commodity.

* * * * *

■ 3. Section 180.317 is amended as follows:

■ i. Revise the introductory text in paragraph (a);

■ ii. Remove and reserve paragraph (b);

■ iii. Revise the introductory text in paragraph (c);

■ iv. Revise the introductory text in paragraph (d).

The revised text reads as follows:

### § 180.317 Propyzamide; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide propyzamide, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those propyzamide residues convertible to methyl 3,5-dichlorobenzoate, expressed as the stoichiometric equivalent of propyzamide, 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide, in or on the commodity.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(l), are established for residues of the herbicide propyzamide, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those propyzamide residues convertible to methyl 3,5-dichlorobenzoate, expressed as the stoichiometric equivalent of propyzamide, 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide, in or on the commodity.

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide propyzamide, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those propyzamide residues convertible to methyl 3,5-dichlorobenzoate, expressed as the stoichiometric equivalent of propyzamide, 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide, in or on the commodity.

* * * * *

■ 4. Revise § 180.337 to read as follows:

**§ 180.337 Oxytetracycline; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the fungicide/bactericide oxytetracycline, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only oxytetracycline, (4S,4aR,5S,5aR,6S,12aS)-4-(dimethylamino)-1,4,4a,5,5a,6,11,12a-octahydro-3,5,6,10,12,12a-hexahydroxy-6-methyl-1,11-dioxo-2-naphthacenecarboxamide, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Apple | 0.35 |
| Peach | 0.35 |
| Pear | 0.35 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 5. Section 180.362 is amended as follows:

■ i. Revise the section heading;

■ ii. Revise the introductory text in paragraph (a)(1);

■ iii. Revise the introductory text in paragraph (a)(2);

■ iv. Revise the introductory text in paragraph (c).

The revised text reads as follows:

**§ 180.362 Fenbutatin-oxide; tolerances for residues.**

(a) * * * (1) Tolerances are established for residues of the miticide/acaricide fenbutatin-oxide, including its metabolites and degradates, in or on the plant commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only fenbutatin-oxide, hexakis (2-methyl-2-phenylpropyl) distannoxane, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the miticide/acaricide fenbutatin-oxide, including its metabolites and degradates, in or on the animal commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fenbutatin-oxide, hexakis (2-methyl-2-phenylpropyl) distannoxane, and its organotin metabolites, dihydroxybis(2-methyl-2-phenylpropyl) stannane and 2-methyl-2-phenylpropylstannoic acid, calculated as the stoichiometric equivalent of fenbutatin-oxide, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with regional registration, as defined in § 180.1(l), is established for residues of the miticide/acaricide fenbutatin-oxide, including its metabolites and degradates, in or on the plant commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only fenbutatin-oxide, hexakis (2-methyl-2-phenylpropyl) distannoxane, in or on the commodity.

* * * * *

■ 6. Section 180.414 is amended as follows:

■ i. Revise the introductory text in paragraph (a)(1);

■ ii. Revise paragraph (a)(2);

■ iii. Revise the introductory text in paragraph (d).

The revised reads as follows:

**§ 180.414 Cyromazine; tolerances for residues.**

(a) * * * (1) Tolerances are established for residues of the insecticide cyromazine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine, in or on the commodity.

* * * * *

(2) A tolerance of 5.0 parts per million is established for residues of the insecticide cyromazine, including its metabolites and degradates, in or on poultry feed when used as a feed additive only in feed for chicken layer hens and chicken breeder hens at the rate of not more than 0.01 pound of cyromazine per ton of poultry feed for control of flies in manure of treated chicken layer hens and chicken breeder hens, provided the feeding of cyromazine-treated feed must stop at least 3 days (72 hours) before slaughter. If the feed is formulated by any person other than the end user, the formulator must inform the end user, in writing, of the 3-day (72 hours) pre-slaughter interval. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine, in or on the commodity.

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the insecticide cyromazine, including its metabolites and degradates, in or on the commodities in the table in this paragraph when present therein as a result of the application of cyromazine to growing crops listed in paragraph (a)(1) of this section. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only cyromazine, *N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine, in or on the commodity.

* * * * *

■ 7. Section 180.415 is amended as follows:

■ i. Revise paragraph (a);

■ ii. Revise the introductory text in paragraph (c).

The revised text reads as follows:

**§ 180.415 Aluminum tris (O-ethylphosphonate); tolerances for residues.**

(a) *General.* Tolerances are established for residues of the fungicide aluminum tris (*O*-ethylphosphonate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only aluminum tris (*O*-ethylphosphonate), in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Avocado | 25 |
| Banana | 3.0 |
| Bushberry subgroup 13B | 40 |
| Caneberry subgroup 13A | 0.1 |
| Cranberry | 0.5 |
| Fruit, citrus, group 10 | 5.0 |
| Fruit, pome, group 11 | 10 |
| Ginseng | 0.1 |
| Hop, dried cones | 45 |
| Juneberry | 40 |
| Lingonberry | 40 |
| Nut, macadamia | 0.20 |
| Onion, bulb | 0.5 |
| Onion, green | 10.0 |
| Pea, succulent | 0.3 |
| Pineapple | 0.1 |
| Salal | 40 |
| Strawberry | 75 |
| Tomato | 3 |
| Turnip, greens | 40 |
| Turnip, roots | 15 |
| Vegetable, brassica, leafy, group 5 | 60 |
| Vegetable, cucurbit, group 9 | 15 |
| Vegetable, leafy, except brassica, group 4 | 100 |

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(l), are established for residues of the fungicide

aluminum tris (*O*-ethylphosphonate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only aluminum tris (*O*-ethylphosphonate), in or on the commodity.

* * * * *

■ 8. Revise § 180.420 to read as follows:

**§ 180.420 Fluridone; tolerances for residues.**

(a) *General.* (1) Tolerances are established for residues of the herbicide fluridone, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fluridone, 1-methyl-3-phenyl-5-(3-(trifluoromethyl)phenyl)-4(1*H*)-pyridinone, and its bound residues, calculated as the stoichiometric equivalent of fluridone, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Crayfish | 0.5 |
| Fish | 0.5 |

(2) Tolerances are established for residues of the herbicide fluridone, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only fluridone, 1-methyl-3-phenyl-5-(3-(trifluoromethyl)phenyl)-4(1*H*)-pyridinone, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Cattle, fat | 0.05 |
| Cattle, kidney | 0.1 |
| Cattle, liver | 0.1 |
| Cattle, meat | 0.05 |
| Cattle, meat byproducts | 0.05 |
| Egg | 0.05 |
| Goat, fat | 0.05 |
| Goat, kidney | 0.1 |
| Goat, liver | 0.1 |
| Goat, meat | 0.05 |
| Goat, meat byproducts | 0.05 |
| Hog, fat | 0.05 |
| Hog, kidney | 0.1 |
| Hog, liver | 0.1 |
| Hog, meat | 0.05 |
| Hog, meat byproducts | 0.05 |
| Horse, fat | 0.05 |
| Horse, kidney | 0.1 |
| Horse, liver | 0.1 |
| Horse, meat | 0.05 |
| Horse, meat byproducts | 0.05 |
| Milk | 0.05 |
| Poultry, fat | 0.05 |
| Poultry, kidney | 0.01 |
| Poultry, liver | 0.01 |
| Poultry, meat | 0.05 |
| Poultry, meat byproducts | 0.05 |
| Sheep, fat | 0.05 |
| Sheep, kidney | 0.1 |
| Sheep, liver | 0.1 |
| Sheep, meat | 0.05 |
| Sheep, meat byproducts | 0.05 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide fluridone, including its metabolites and degradates, in or on the irrigated crop commodities and crop groupings in the table in this paragraph, resulting from use of irrigation water containing residues of 0.15 parts per million following applications of fluridone on or around aquatic sites. Where tolerances are established at higher levels from other uses of fluridone on the crops in the table in this paragraph, the higher tolerance also applies to residues in or on the irrigated commodity. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only fluridone, 1-methyl-3-phenyl-5-(3-(trifluoromethyl)phenyl)-4(1*H*)-pyridinone, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Animal feed, nongrass, group 18 | 0.15 |
| Avocado | 0.1 |
| Berry, group 13 | 0.1 |
| Cotton, undelinted seed | 0.1 |
| Cranberry | 0.1 |
| Fruit, citrus, group 10 | 0.1 |
| Fruit, pome, group 11 | 0.1 |
| Fruit, stone, group 12 | 0.1 |
| Grain, cereal, forage, fodder and straw, group 16 | 0.1 |
| Grain, cereal, group 15 | 0.1 |
| Grape | 0.1 |
| Grass, forage | 0.15 |
| Hop, dried cones | 0.1 |
| Nut, tree, group 14 | 0.1 |
| Okra | 0.1 |
| Strawberry | 0.1 |
| Vegetable, brassica, leafy, group 5 | 0.1 |
| Vegetable, cucurbit, group 9 | 0.1 |
| Vegetable, fruiting, group 8 | 0.1 |
| Vegetable, leafy, except brassica, group 4 | 0.1 |
| Vegetable, leaves of root and tuber, group 2 | 0.1 |
| Vegetable, legume, group 6 | 0.1 |
| Vegetable, root and tuber, group 1 | 0.1 |

■ 9. In § 180.425 revise the introductory text in paragraph (a) to read as follows:

**§ 180.425 Clomazone; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide clomazone, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only clomazone, 2-[(2-chlorophenyl)methyl]-4,4-dimethyl-3-isoxazolidinone, in or on the commodity.

* * * * *

■ 10. Section 180.430 is amended as follows:

■ i. Revise the introductory text in paragraph (a);

■ ii. Revise the introductory text in paragraph (b).

The revised text reads as follows:

**§ 180.430 Fenoxaprop-ethyl; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide fenoxaprop-ethyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fenoxaprop-ethyl, (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate, and its metabolites, 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, calculated as the stoichiometric equivalent of fenoxaprop-ethyl, in or on the commodity.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the herbicide fenoxaprop-ethyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph in connection with use of fenoxaprop-ethyl under section 18 emergency exemptions granted by EPA. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fenoxaprop-ethyl, (±)-ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate, and its metabolites, 2-[4-[(6-chloro-2-

benzoxazolyl)oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one, calculated as the stoichiometric equivalent of fenoxaprop-ethyl, in or on the commodity. The tolerances expire and are revoked on the dates specified in the table in this paragraph.

* * * * *

■ 11. Section 180.432 is amended as follows:

■ i. Revise the introductory text in paragraph (a);

■ ii. Revise the introductory text in paragraph (c).

The revised text reads as follows:

**§ 180.432 Lactofen; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide lactofen, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only lactofen, 2-ethoxy-1-methyl-2-oxoethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, in or on the commodity.

* * * * *

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(l), are established for residues of the herbicide lactofen, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only lactofen, 2-ethoxy-1-methyl-2-oxoethyl 5-[2-chloro-4-(trifluoromethyl)phenoxy]-2-nitrobenzoate, in or on the commodity.

* * * * *

■ 12. Section 180.446 is amended as follows:

■ i. Revise the introductory text in paragraph (a)(1);

■ ii. Revise the introductory text in paragraph (a)(2).

The revised text reads as follows:

**§ 180.446 Clofentezine; tolerances for residues.**

(a) * * * (1) Tolerances are established for residues of the insecticide clofentezine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only clofentezine, 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the insecticide clofentezine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of clofentezine, 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine, and its metabolite, 3-(2-chloro-4-hydroxyphenyl)-6-(2-chlorophenyl)-1,2,4,5-tetrazine, calculated as the stoichiometric equivalent of clofentezine, in or on commodity.

* * * * *

■ 13. Revise § 180.458 to read as follows:

**§ 180.458 Clethodim; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide clethodim, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of clethodim, 2-[(1E)-1-[[[(2E)-3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one, and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, calculated as the stoichiometric equivalent of clethodim, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Alfalfa, forage | 6.0 |
| Alfalfa, hay | 10 |
| Artichoke, globe | 1.2 |
| Asparagus | 1.7 |
| Bean, dry, seed | 2.5 |
| Beet, sugar, molasses | 1.0 |
| Beet, sugar, roots | 0.20 |
| Beet, sugar, tops | 1.0 |
| Brassica, head and stem, subgroup 5A | 3.0 |
| Brassica, leafy greens, subgroup 5B | 3.0 |
| Bushberry subgroup 13–07B | 0.20 |
| Caneberry subgroup 13–07A | 0.30 |
| Canola, meal | 1.0 |
| Canola, seed | 0.50 |
| Cattle, fat | 0.2 |
| Cattle, meat | 0.2 |
| Cattle, meat byproducts | 0.2 |
| Clover, forage | 10.0 |
| Clover, hay | 20.0 |
| Corn, field, forage | 0.2 |
| Corn, field, grain | 0.2 |
| Corn, field, stover | 0.2 |
| Cotton, meal | 2.0 |
| Cotton, undelinted seed | 1.0 |
| Cranberry | 0.50 |
| Egg | 0.2 |
| Flax, meal | 1.0 |
| Flax, seed | 0.6 |
| Goat, fat | 0.2 |
| Goat, meat | 0.2 |
| Goat, meat byproducts | 0.2 |
| Herb subgroup 19A | 12.0 |
| Hog, fat | 0.2 |
| Hog, meat | 0.2 |
| Hog, meat byproducts | 0.2 |
| Hop, dried cones | 0.5 |
| Horse, fat | 0.2 |
| Horse, meat | 0.2 |
| Horse, meat byproducts | 0.2 |
| Leaf petioles subgroup 4B | 0.60 |
| Leafy greens subgroup 4A | 2.0 |
| Melon subgroup 9A | 2.0 |
| Milk | 0.05 |
| Mustard, seed | 0.50 |
| Onion, bulb | 0.20 |
| Onion, green | 2.0 |
| Peach | 0.20 |
| Peanut | 3.0 |
| Peanut, hay | 3.0 |
| Peanut, meal | 5.0 |
| Peppermint, tops | 5.0 |
| Potato | 0.5 |
| Potato, granules/flakes | 2.0 |
| Poultry, fat | 0.2 |
| Poultry, meat | 0.2 |
| Poultry, meat byproducts | 0.2 |
| Radish, tops | 0.70 |
| Safflower, meal | 10.0 |
| Safflower, seed | 5.0 |
| Sesame, seed | 0.35 |
| Sheep, fat | 0.2 |
| Sheep, meat | 0.2 |
| Sheep, meat byproducts | 0.2 |
| Soybean | 10.0 |
| Soybean, soapstock | 15.0 |
| Spearmint, tops | 5.0 |
| Squash/cucumber subgroup 9B | 0.50 |
| Strawberry | 3.0 |
| Sunflower, meal | 10.0 |
| Sunflower, seed | 5.0 |
| Turnip, greens | 3.0 |
| Vegetable, fruiting group 8 | 1.0 |
| Vegetable, legume, group 6, except soybean | 3.5 |
| Vegetable, root, except sugar beet, subgroup 1B | 1.0 |
| Vegetable, tuberous and corm, subgroup 1C | 1.0 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 14. In § 180.462 revise the introductory text in paragraph (a) to read as follows:

**§ 180.462 Pyridate; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide pyridate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by

measuring only the sum of pyridate, *O*-(6-chloro-3-phenyl-4-pyridazinyl)-*S*-octyl-carbonothioate, and its metabolites, 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol, calculated as the stoichiometric equivalent of pyridate, in or on the commodity.

* * * * *

■ 15. Section 180.463 is amended as follows:

■ i. Revise the introductory text in paragraph (a);

■ ii. Revise the introductory text in paragraph (b).

The revised text reads as follows:

**§ 180.463 Quinclorac; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide quinclorac, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only quinclorac, 3,7-dichloro-8-quinolinecarboxylic acid, in or on the commodity.

* * * * *

(b) *Section 18 Emergency exemptions.* Time-limited tolerances are established for residues of the herbicide quinclorac, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only quinclorac, 3,7-dichloro-8-quinolinecarboxylic acid, in or on the commodity. The tolerance expires and is revoked on the date specified in the table in this paragraph.

* * * * *

■ 16. Revise § 180.468 to read as follows:

**§ 180.468 Flumetsulam; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide flumetsulam, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only flumetsulam, *N*-(2,6-difluorophenyl)-5-methyl-(1,2,4)-triazolo-(1,5a)-pyrimidine-2-sulfonamide, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Bean, dry, seed | 0.05 |
| Corn, field, forage | 0.05 |
| Corn, field, grain | 0.05 |
| Corn, field, stover | 0.05 |
| Soybean, seed | 0.05 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 17. Section 180.473 is amended as follows:

■ i. Revise the introductory text in paragraph (a);

■ ii. Revise the introductory text in paragraph (d).

The revised text reads as follows:

**§ 180.473 Glufosinate ammonium; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide glufosinate ammonium, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of glufosinate ammonium, 2-amino-4-(hydroxymethylphosphinyl)butanoic acid monoammonium salt, and its metabolites, 2-(acetylamino)-4-(hydroxymethylphosphinyl)butanoic acid and 3-(hydroxymethylphosphinyl)propionic acid, calculated as the stoichiometric equivalent of 2-amino-4-(hydroxymethylphosphinyl)butanoic acid, in or on the commodity.

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the herbicide glufosinate ammonium, including its metabolites and degradates, in or on the commodities in the table in this paragraph when present therein as a result of the application of glufosinate ammonium to crops listed in paragraph (a) of this section. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of glufosinate ammonium, 2-amino-4-(hydroxymethylphosphinyl)butanoic acid monoammonium salt, and its metabolite, 3-(hydroxymethylphosphinyl)propionic acid, calculated as the stoichiometric equivalent of 2-amino-4-(hydroxymethylphosphinyl)butanoic acid, in or on the commodity.

* * * * *

■ 18. In § 180.477 revise the introductory text in paragraph (a) to read as follows:

**§ 180.477 Flumiclorac pentyl; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide flumiclorac pentyl, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only flumiclorac pentyl, pentyl(2-chloro-4-fluoro-5-(1,3,4,5,6,7-hexahydro-1,3-dioxo-2*H*-isoindol-2-yl)phenoxy)acetate, in or on the commodity.

* * * * *

■ 19. Section 180.482 is amended as follows:

■ i. Revise the introductory text in paragraph (a)(1);

■ ii. Revise the introductory text in paragraph (a)(2);

■ iii. Remove and reserve paragraph (b);

■ iv. Revise the introductory text in paragraph (d).

The revised text reads as follows:

**§ 180.482 Tebufenozide; tolerances for residues.**

(a) * * * (1) Tolerances are established for residues of the insecticide tebufenozide, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only tebufenozide, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, in or on the commodity.

* * * * *

(2) Tolerances are established for residues of the insecticide tebufenozide, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tebufenozide, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, and its metabolites, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-((4-carboxymethyl)benzoyl)hydrazide, 3-hydroxymethyl-5-methylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, stearic acid conjugate of 3-hydroxymethyl-5-methylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, and 3-hydroxymethyl-5-methylbenzoic acid 1-

(1,1-dimethylethyl)-2-(4-(1-hydroxyethyl)benzoyl)hydrazide, calculated as the stoichiometric equivalent of tebufenozide, in or on the commodity.

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

(d) *Indirect or inadvertent residues.* Tolerances are established for indirect or inadvertent residues of the insecticide tebufenozide, including its metabolites and degradates, in or on the commodities in the table in this paragraph when present therein as a result of the application of tebufenozide to growing crops listed in the table to paragraph (a)(1) of this section. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tebufenozide, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, and its metabolite, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-(1-hydroxyethyl)benzoyl)hydrazide, calculated as the stoichiometric equivalent of tebufenozide, in or on the commodity.

* * * * *

■ 20. Revise § 180.486 to read as follows:

**§ 180.486 Chlorethoxyfos; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide chlorethoxyfos, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only chlorethoxyfos, *O,O*-diethyl *O*-(1,2,2,2-tetrachloroethyl) phosphorothioate, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Corn, field, forage | 0.01 |
| Corn, field, grain | 0.01 |
| Corn, field, stover | 0.01 |
| Corn, pop, grain | 0.01 |
| Corn, pop, stover | 0.01 |
| Corn, sweet, forage | 0.01 |
| Corn, sweet, kernel plus cob with husks removed | 0.01 |
| Corn, sweet, stover | 0.01 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

■ 21. In § 180.541 revise paragraph (a) to read as follows:

**§ 180.541 Propetamphos; tolerances for residues.**

(a) *General.* A tolerance of 0.1 part per million is established for residues of the insecticide propetamphos, including its metabolites and degradates, in or on food or feed commodities when present therein as a result of the treatment of food- or feed-handling establishments with propetamphos. Direct application shall be limited solely to spot and/or crack and crevice treatment in food- or feed-handling establishments where food or feed and food or feed products are held, processed, prepared, served, or sold. Spray and dust concentrations shall be limited to a maximum of 1 percent active ingredient. For crack and crevice treatment, equipment capable of delivering a dust or a pin-stream of spray directly into cracks and crevices shall be used. For spot treatment, a coarse, low-pressure spray shall be used to avoid contamination of food, feed, or food-contact/feed-contact surfaces. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only propetamphos, 1-methylethyl-(2E)-3-((ethylamino)methoxyphosphinothioyl) oxy)-2-butenoate, in or on the commodity.

* * * * *

■ 22. In § 180.596 revise the introductory text in paragraph (a) to read as follows:

**§ 180.596 Fosthiazate; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the insecticide fosthiazate, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of fosthiazate, *O*-ethyl *S*-(1-methylpropyl)(2-oxo-3-thiazolidinyl)phosphonothioate, and its metabolite, *O*-ethyl *S*-(1-methylpropyl)(2-(methylsulfonyl)ethyl) phosphoramidothioate, calculated as the stoichiometric equivalent of fosthiazate, in or on the commodity.

* * * * *

■ 23. Revise § 180.620 to read as follows:

**§ 180.620 Etofenprox; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the insecticide etofenprox, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only etofenprox, 2-(4-ethoxyphenyl)-2-methylpropyl 3-phenoxybenzyl ether, in or on the commodity.

| Commodity | Parts per million |
|---|---|
| Rice, grain | 0.01 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2011–9937 Filed 4–26–11; 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–8177]**

### 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** | | | | |
| West Virginia: | | | | |
| Barbour County, Unincorporated Areas | 540001 | November 21, 1975, Emerg; July 1, 1987, Reg; May 3, 2011, Susp. | May 3, 2011 ..... | May 3, 2011. |
| Belington, Town of, Barbour County ..... | 540002 | November 11, 1974, Emerg; August 1, 1979, Reg; May 3, 2011, Susp. | *.....do ..... | Do. |
| Junior, Town of, Barbour County ..... | 540003 | April 3, 1975, Emerg; April 17, 1987, Reg; May 3, 2011, Susp. | .....do ..... | Do. |
| Philippi, City of, Barbour County ..... | 540004 | June 26, 1974, Emerg; September 4, 1986, Reg; May 3, 2011, Susp. | .....do ..... | Do. |
| **Region IV** | | | | |
| Kentucky: Glasgow, City of, Barren County | 210007 | November 29, 1974, Emerg; May 1, 1987, Reg; May 3, 2011, Susp. | .....do ..... | Do. |
| Mississippi: | | | | |
| Clay County, Unincorporated Areas ..... | 280036 | January 19, 1978, Emerg; July 16, 1990, Reg; May 3, 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 |
|---|---|---|---|---|
| West Point, City of, Clay County | 280037 | February 1, 1974, Emerg; January 5, 1978, Reg; May 3, 2011, Susp. | do | Do. |
| South Carolina: | | | | |
| Fairfield County, Unincorporated Areas | 450075 | December 21, 1978, Emerg; July 19, 1982, Reg; May 3, 2011, Susp. | do | Do. |
| Greenwood, City of, Greenwood County | 450093 | July 22, 1975, Emerg; February 4, 1987, Reg; May 3, 2011, Susp. | do | Do. |
| Greenwood County, Unincorporated Areas. | 450094 | April 21, 1978, Emerg; March 18, 1987, Reg; May 3, 2011, Susp. | do | Do. |
| Ninety Six, Town of, Greenwood County. | 450244 | September 17, 1986, Emerg; September 17, 1986, Reg; May 3, 2011, Susp. | do | Do. |
| **Region V** | | | | |
| Indiana: | | | | |
| Alexandria, City of, Madison County | 180149 | December 13, 1974, Emerg; July 2, 1981, Reg; May 3, 2011, Susp. | do | Do. |
| Anderson, City of, Madison County | 180150 | November 7, 1974, Emerg; December 4, 1979, Reg; May 3, 2011, Susp. | do | Do. |
| Chesterfield, Town of, Madison County | 180151 | February 14, 1975, Emerg; May 1, 1980, Reg; May 3, 2011, Susp. | do | Do. |
| Elwood, City of, Madison and Tipton Counties. | 180152 | March 19, 1975, Emerg; May 19, 1981, Reg; May 3, 2011, Susp. | do | Do. |
| Frankton, Town of, Madison County | 180154 | June 5, 1975, Emerg; May 5, 1981, Reg; May 3, 2011, Susp. | d | Do. |
| Ingalls, Town of, Madison County | 180155 | March 24, 1975, Emerg; July 15, 1988, Reg; May 3, 2011, Susp. | do | Do. |
| Madison County, Unincorporated Areas | 180442 | October 23, 1990, Emerg; February 1, 1994, Reg; May 3, 2011, Susp. | do | Do. |
| Pendleton, Town of, Madison County | 180156 | December 26, 1974, Emerg; May 3, 1982, Reg; May 3, 2011, Susp. | do | Do. |
| Summitville, Town of, Madison County | 180157 | May 5, 1975, Emerg; July 21, 1978, Reg; May 3, 2011, Susp. | do | Do. |
| Michigan: | | | | |
| DeWitt, Charter Township of, Clinton County. | 260631 | August 25, 1975, Emerg; June 18, 1980, Reg; May 3, 2011, Susp. | do | Do. |
| DeWitt, City of, Clinton County | 260060 | July 11, 1975, Emerg; December 18, 1979, Reg; May 3, 2011, Susp. | do | Do. |
| East Lansing, City of, Clinton and Ingham Counties. | 260089 | March 24, 1975, Emerg; August 1, 1980, Reg; May 3, 2011, Susp. | do | Do. |
| Elsie, Village of, Clinton County | 260725 | May 28, 1982, Emerg; July 16, 1987, Reg; May 3, 2011, Susp. | do | Do. |
| Hubbardston, Village of, Clinton and Ionia Counties. | 260418 | February 7, 1990, Emerg; June 1, 1995, Reg; May 3, 2011, Susp. | do | Do. |
| Maple Rapids, Village of, Clinton County. | 260384 | November 8, 1976, Emerg; September 1, 1986, Reg; May 3, 2011, Susp. | do | Do. |
| Ovid, Village of, Clinton County | 260318 | May 1, 1975, Emerg; August 2, 1982, Reg; May 3, 2011, Susp. | do | Do. |
| St. Johns, City of, Clinton County | 260726 | May 28, 1982, Emerg; March 16, 1988, Reg; May 3, 2011, Susp. | do | Do. |
| Victor, Township of, Clinton County | 260720 | May 11, 1981, Emerg; February 2, 1989, Reg; May 3, 2011, Susp. | do | Do. |
| Watertown, Charter Township of, Clinton County. | 260291 | April 16, 1974, Emerg; May 17, 1982, Reg; May 3, 2011, Susp. | do | Do. |
| Ohio: | | | | |
| Bettsville, Village of, Seneca County | 390500 | December 21, 1978, Emerg; September 30, 1988, Reg; May 3, 2011, Susp. | do | Do. |
| Seneca County, Unincorporated Areas | 390779 | April 3, 1979, Emerg; May 17, 1990, Reg; May 3, 2011, Susp. | do | Do. |
| Tiffin, City of, Seneca County | 390502 | May 12, 1975, Emerg; July 3, 1986, Reg; May 3, 2011, Susp. | do | Do. |
| **Region VI** | | | | |
| Arkansas: | | | | |
| Crittenden County, Unincorporated Areas. | 050429 | May 18, 1983, Emerg; November 1, 1985, Reg; May 3, 2011, Susp. | do | Do. |
| Earle, City of, Crittenden County | 050054 | June 20, 1974, Emerg; January 3, 1986, Reg; May 3, 2011, Susp. | do | Do. |
| Edmondson, Town of, Crittenden County. | 050409 | November 8, 1976, Emerg; March 18, 1986, Reg; May 3, 2011, Susp. | do | Do. |
| Horseshoe Lake, Town of, Crittenden County. | 055057 | N/A, Emerg; January 18, 2006, Reg; May 3, 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 |
|---|---|---|---|---|
| Marion, City of, Crittenden County | 050345 | July 9, 1975, Emerg; September 1, 1987, Reg; May 3, 2011, Susp. | .....do | Do. |
| Turrell, City of, Crittenden County | 050370 | July 9, 1976, Emerg; February 1, 1988, Reg; May 3, 2011, Susp. | .....do | Do. |
| West Memphis, City of, Crittenden County. | 050055 | June 6, 1974, Emerg; July 16, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| **Region VII** | | | | |
| Iowa: | | | | |
| Beaver, City of, Boone County | 190322 | January 3, 2008, Emerg; May 3, 2011, Reg; May 3, 2011, Susp. | .....do | Do. |
| Boone, City of, Boone County | 190555 | N/A, Emerg; October 7, 1993, Reg; May 3, 2011, Susp.. | .....do | Do. |
| Boone County, Unincorporated Areas | 190846 | November 9, 1993, Emerg; September 1, 1996, Reg; May 3, 2011, Susp. | .....do | Do. |
| Fort Madison, City of, Lee County | 190184 | April 11, 1974, Emerg; May 3, 1982, Reg; May 3, 2011, Susp. | .....do | Do. |
| Keokuk, City of, Lee County | 190185 | March 27, 1974, Emerg; March 1, 1978, Reg; May 3, 2011, Susp. | .....do | Do. |
| Lee County, Unincorporated Areas | 190182 | September 11, 1978, Emerg; June 15, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Madrid, City of, Boone County | 190325 | October 21, 1976, Emerg; June 10, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Montrose, City of, Lee County | 190186 | August 8, 1975, Emerg; February 18, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Pilot Mound, City of, Boone County | 190326 | August 28, 1990, Emerg; July 1, 1991, Reg; May 3, 2011, Susp. | .....do | Do. |
| Kansas: | | | | |
| Lane, City of, Franklin County | 200103 | December 20, 2007, Emerg; September 1, 2008, Reg; May 3, 2011, Susp. | .....do | Do. |
| Rantoul, City of, Franklin County | 200107 | August 7, 1975, Emerg; September 1, 1990, Reg; May 3, 2011, Susp. | .....do | Do. |
| Missouri: | | | | |
| Blackwater, City of, Cooper County | 290109 | March 22, 1976, Emerg; December 7, 1984, Reg; May 3, 2011, Susp. | .....do | Do. |
| Boonville, City of, Cooper County | 290110 | October 9, 1974, Emerg; October 16, 1984, Reg; May 3, 2011, Susp. | .....do | Do. |
| Cooper County, Unincorporated Areas | 290794 | April 26, 1984, Emerg; September 1, 1989, Reg; May 3, 2011, Susp. | .....do | Do. |
| Pilot Grove, City of, Cooper County | 290678 | N/A, Emerg; November 24, 2008, Reg; May 3, 2011, Susp. | .....do | Do. |
| Nebraska: | | | | |
| Cozad, City of, Dawson County | 310059 | March 7, 1975, Emerg; June 30, 1976, Reg; May 3, 2011, Susp. | .....do | Do. |
| Dawson County, Unincorporated Areas | 310058 | March 8, 1984, Emerg; July 1, 1988, Reg; May 3, 2011, Susp. | .....do | Do. |
| Lexington, City of, Dawson County | 310063 | March 23, 1977, Emerg; May 15, 1984, Reg; May 3, 2011, Susp. | .....do | Do. |
| Overton, Village of, Dawson County | 310064 | July 1, 1975, Emerg; September 27, 1985, Reg; May 3, 2011, Susp. | .....do | Do. |
| Sumner, Village of, Dawson County | 310065 | June 27, 1975, Emerg; September 27, 1985, Reg; May 3, 2011, Susp. | .....do | Do. |
| **Region VIII** | | | | |
| North Dakota: | | | | |
| Cavalier, Township of, Pembina County | 380274 | July 20, 1981, Emerg; July 20, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Crystal, City of, Pembina County | 380082 | July 15, 1975, Emerg; January 16, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Drayton, City of, Pembina County | 380150 | April 23, 1974, Emerg; August 1, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Drayton, Township of, Pembina County | 380276 | October 6, 1982, Emerg; May 1, 1986, Reg; May 3, 2011, Susp. | .....do | Do. |
| Hamilton, City of, Pembina County | 380084 | January 21, 1976, Emerg; February 17, 1988, Reg; May 3, 2011, Susp. | .....do | Do. |
| Neche, City of, Pembina County | 380085 | October 18, 1974, Emerg; July 16, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Pembina County, Unincorporated Areas | 380079 | May 1, 1974, Emerg; November 19, 1987, Reg; May 3, 2011, Susp. | .....do | Do. |
| Walhalla, City of, Pembina County | 380254 | May 3, 1976, Emerg; April 15, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |

| State and location | Community No. | Effective date authorization/cancellation of sale of flood insurance in community | Current effective map date | Date certain Federal assistance no longer available in SFHAs |
|---|---|---|---|---|
| **Region X** | | | | |
| Oregon: | | | | |
| Ashland, City of, Jackson County | 410090 | August 9, 1974, Emerg; June 1, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Central Point, City of, Jackson County | 410092 | September 18, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Eagle Point, City of, Jackson County | 410093 | June 5, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Gold Hill, City of, Jackson County | 410094 | August 5, 1974, Emerg; September 17, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Jackson County, Unincorporated Areas | 415589 | December 31, 1970, Emerg; April 1, 1982, Reg; May 3, 2011, Susp. | .....do | Do. |
| Jacksonville, City of, Jackson County | 410095 | April 4, 1975, Emerg; December 4, 1979, Reg; May 3, 2011, Susp. | .....do | Do. |
| Medford, City of, Jackson County | 410096 | June 7, 1974, Emerg; April 15, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Phoenix, City of, Jackson County | 410097 | June 11, 1975, Emerg; May 3, 1982, Reg; May 3, 2011, Susp. | .....do | Do. |
| Rogue River, City of, Jackson County | 410098 | May 17, 1974, Emerg; January 2, 1981, Reg; May 3, 2011, Susp. | .....do | Do. |
| Shady Cove, City of, Jackson County | 410099 | August 23, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |
| Talent, City of, Jackson County | 410100 | April 7, 1975, Emerg; February 1, 1980, Reg; May 3, 2011, Susp. | .....do | Do. |

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

Dated: April 15, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and* Mitigation Administrator, Mitigation.

[FR Doc. 2011–10174 Filed 4–26–11; 8:45 am]

BILLING CODE 9110–12–P

## LEGAL SERVICES CORPORATION

## 45 CFR Part 1609

## Fee-Generating Cases

**AGENCY:** Legal Services Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Legal Services Corporation's regulation on fee-generating cases to clarify that it applies only to LSC and private non-LSC funds.

**DATES:** This final rule becomes effective on May 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007; 202–295–1624 (ph); 202–337–6519 (fax); *mcohan@lsc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

This final rule follows the publication of a Notice of Proposed Rulemaking published by the Legal Services Corporation (LSC) on February 4, 2011 proposing to amend LSC's regulation at 45 CFR part 1609 on fee-generating cases to clarify that it applies only to LSC and private non-LSC funds. 76 FR 6381. On April 15, 2011, the LSC Board of Directors adopted the proposed changes and authorized the publication of this final rule.

Generally, the substantive LSC restrictions on LSC recipients fall into two categories: "entity restrictions" and "LSC funds restrictions." "Entity restrictions" apply to all activities of a recipient regardless of the funding source (except for the use of tribal funds as intended) and generally originate in section 504 of LSC's FY 1996 appropriations act (the provisions of which have been carried forward in subsequent appropriations). In contrast, "LSC funds restrictions" usually originate from the LSC Act and apply to the use of LSC funds and private funds, but not to tribal or public non-LSC funds used as intended. LSC's regulation at 45 CFR part 1609, Fee-Generating Cases, is based on § 1007(b)(1) of the LSC Act, which provides that no funds made available by the Corporation may be used to provide legal assistance, except as per LSC regulation, with respect to any fee-generating case. The fee-generating case provision of the LSC Act is an "LSC funds restriction." However, § 1609.3(a), as currently written, is not limited to the use of LSC funds. Rather it reads as an "entity restriction" reaching all of an LSC recipient's funds. Its wording follows the same structure as other entity restrictions such as part 1617—Class Actions, which states that "Recipients are prohibited from initiating or participating in any class action." 45 CFR 617.3.

From its initial adoption in 1976 through 1996, part 1609 followed the language of the LSC Act and was expressly applied as an LSC funds restriction At that time, § 1609.3 provided that: "[n]o recipient shall use *funds received from the Corporation* to provide legal assistance in a fee-generating case unless" one of the regulatory exceptions applied. 41 FR 18528 (proposed rule May 5, 1976), 41 FR 38505 (final rule Sept. 10, 1976), and 49 FR 19656 (final rule May 9, 1984) (the last final rule prior to 1996) (emphasis added).

In 1996 LSC revised part 1609 in conjunction with the enactment of the part 1642 entity prohibition on recipients claiming or collecting and retaining attorneys' fees. In the revision the language was changed from the prior "Corporation funds" prohibition to the more general "no recipient" entity prohibition. Notably though, there is no discussion in the preamble to the proposed or final regulation of any

significant substantive change in scope. 61 FR 45765 (proposed rule August 29, 1996) and 62 FR 19398 (final rule April 21, 1997). Nor is there any such discussion in any of the relevant LSC Board transcripts. Rather, the only mention of the change in language is the following discussion of the revised § 1609.3:

> This section defines the limits within which recipients may undertake fee-generating cases. This new section reorganizes and replaces §§ 1609.3 and 1609.4 of the current rule *in order to make them easier to understand.*

*Id.* (appearing in the preambles to both the proposed and final rules) (emphasis added). The regulatory history contains extensive discussions of policy and regulatory nuances regarding the then-new attorneys' fees provisions and their relationship with the fee-generating case restriction in Part 1609. These discussions involved the LSC Board, LSC management, the LSC OIG and representatives of recipients. Considering the attention paid to this and the other regulations implemented in 1996 and 1997, it seems very unusual that LSC would adopt such a significant substantive change to part 1609 without any discussion, any description of the change in the preamble to the rule, or any comments by the OIG or representatives of recipients.

Notwithstanding the 1997 regulatory change, LSC has not applied part 1609 as an entity restriction, but has rather continued to apply it as an restriction applying only to a recipient's LSC and private non-LSC funds. For example, the LSC Compliance Supplement to the LSC Audit Guide, which provides guidance to auditors regarding recipient compliance with the substantive LSC restrictions, states that part 1609 means that "[r]ecipients may not use Corporation or private funds to provide legal assistance in a fee-generating case unless" one of the regulatory exceptions applies. It does not instruct auditors to read part 1609 as applying to tribal or public non-LSC funds. The Compliance Supplement was last revised in December 1998 (after part 1609 had been amended).

In addition, LSC's regulation on the use of non-LSC funds at 45 CFR part 1610 treats the fee-generating case restriction as an LSC funds restriction, rather than as an entity restriction, notwithstanding than express language of § 1609.3. Generally part 1610 works in tandem with the other regulations; each regulation (other than part 1610) expressly specifies whether it applies to a recipient's use of LSC funds (usually referred to as "Corporation funds") or if it applies to the recipient entirely and part 1610 categorizes each substantive LSC restriction as either an "LSC Act restriction" based on the provisions of the LSC Act [1] or an "entity restriction" (based on section 504 of the LSC FY 1996 appropriations act) and then variously applies those other regulations to the use of non-LSC funds depending on whether the substantive restriction is an LSC Act (funds) restriction or a section 504 (entity) restriction. 45 CFR 1610.3 and 1610.4. The definitions section of part 1610 includes the fee-generating case restriction found in section 1007(b)(1) of the LSC Act and part 1609 of the Corporation's regulations as an LSC Act restriction, not as an entity restriction. 45 CFR 1610.2(a)(3).

Section 1610.3 contains a general prohibition regarding the use of non-LSC funds, providing that recipient may not use non-LSC funds for any purpose prohibited by the LSC Act or for any activity prohibited by or inconsistent with Section 504, unless such use is authorized by §§ 1610.4, 1610.6 or 1610.7 of this part. Section 1610.4(b) contains a public non-LSC funds exception to the LSC Act restrictions but not the section 504 entity restrictions, providing that a recipient may receive public or IOLTA funds and use them in accordance with the specific purposes for which they were provided, if the funds are not used for any activity prohibited by or inconsistent with section 504. Thus § 1610.4(b) permits the use of public non-LSC or IOLTA funds for all activities categorized as "LSC Act restrictions" in § 1610.2, which includes Part 1609. Normally the exception for public non-LSC funds only applies to regulations that themselves are limited to LSC funds and private funds. Part 1609 is an anomaly in that it uses "entity" language to apply to the use of all funds, but is treated by part 1610 as an "LSC Act" restriction that does not apply to public non-LSC funds. There is, thus, a conflict between the language of parts 1610 and 1609.[2]

In sum, while the language of part 1609 changed in 1996 from a restriction on LSC funds to a restriction on all funds, the preamble to the rule indicates that substantive changes to the rule were not intended. In addition, parts 1609 and 1610 are in direct conflict regarding the scope of part 1609. Finally, LSC has not itself applied part 1609 as an entity restriction in practice and has issued guidance in the form of the LSC Compliance Supplement to the Audit Guide applying the restriction only as a restriction on a recipient's LSC and private non-LSC funds (and not applying to a recipient's available public-non LSC funds). Accordingly, LSC believes that the part 1609 needs to be clarified to correct the apparent mistake in drafting and to the express language of part 1609 into conformance with: the apparent intent of the Corporation in 1996 when it revised part 1609; the clear language of part 1610; and LSC practice.

*Amendment of Part 1609*

As discussed above, LSC believes that the 1997 change to the language of part 1609 appearing to extend the scope of the fee-generating case restrictions beyond LSC and private non-LSC funds to be an entity restriction was not intended, but instead was a mistake made in the attempt to "simplify" the language of the regulation without any substantive change to the meaning of the regulation. LSC bases this belief upon the various indicia discussed above, such as the preamble to the final rule amending part 1609; the clear scope of the language in the LSC Act; the treatment of part 1609 in part 1610; LSC's own guidance in the LSC Compliance Supplement to the Audit Guide and LSC's ongoing practice.

LSC thus proposed to amend the language of part 1609 to clarify that it reaches only LSC and private non-LSC funds. 76 FR 6381 (Feb. 4, 2011). LSC received only three comments on the proposed rule, all of which fully supported the change. Accordingly, LSC is amending part 1609 as proposed without further change.

LSC believes that amending the regulation in this way is preferable to maintaining the status quo. Although LSC has not previously encountered significant problems being caused by

[1] Part 1610 actually refers to the fee-generating case and other "LSC fund" restrictions as "LSC Act restrictions. Referring to these as "LSC Act" restrictions is somewhat of a misnomer in that some of the restrictions in the LSC Act are entity restrictions on all funds and LSC has at times imposed restrictions on recipients' LSC and private funds that do not appear in the LSC Act. Nonetheless, it is the term used by part 1610.

[2] It is worth noting that parts 1609 and 1610 were revised contemporaneously in 1996 and 1997. Parts 1609 and 1610 were issued as interim rules on August 29, 1996. 61 FR 45765 (Part 1609) and 61 FR 45740 (Part 1610). At this time, part 1609 contained the revised language while part 1610 continued to treat it as an LSC Act restriction. Part 1609 was finalized on April 21, 1997, with the revised language, while Part 1610 was still under revision. 62 FR 19398. A new final rule on part 1610 was subsequently published on May 21, 1997. 62 FR. 27695. Notwithstanding the final language of part 1609 (appearing to apply the fee-generating case restriction as an entity restriction), the finalized part 1610 continued to apply the fee-generating case restriction as applying only to LSC and private non-LSC funds as had been the case prior to the revision of part 1609.

the apparently inaccurate wording of § 1609.3, the matter came to LSC's attention through a question raised in the course of a compliance visit being conducted by the Corporation's Office of Compliance and Enforcement. Given the question being raised internally at LSC and the clear conflict between the regulations (1609 and 1610), LSC does not believe it would be appropriate to permit this situation to continue, particularly when there is a simple and straightforward solution to the problem.

LSC further believes that amending the regulation in this way brings the regulation into conformity with the provisions of the LSC Act (and is not inconsistent with anything in the applicable appropriations acts). Moreover, it resolves the conflict between parts 1609 and 1610 and reflects the intention of the Corporation in 1997 to refrain from making a substantive change to the previously existing (pre-1997) scope of the regulation. In addition, amending part 1609 in this way is consistent with the existing LSC guidance and practice. As noted above, the LSC Compliance Supplement to the Audit Guide guidance to auditors does not instruct them to apply the restrictions to a recipient's public non-LSC funds and to our knowledge the auditors have not been reporting instances of a recipient's use of public non-LSC funds as problematic with respect to the regulation. Further, LSC's practice has not been to apply the restriction to a recipient's public non-LSC funds. Finally, to LSC's knowledge, the general understanding and practice in the field has been that the restriction does not apply to a recipient's public non-LSC funds. This understanding was confirmed in the comments LSC received on the proposed rule. Thus, amending part 1609 to clarify that it applies as an restriction on LSC and private non-LSC funds, rather than as an entity restriction, does not create any substantive change from current practice.

In light of the above, LSC amends § 1609.3(a) to clarify that a recipient may not use Corporation funds to provide legal assistance in a fee-generating case (unless one of the exceptions apply). As 45 CFR 1610.4 is being amended, that provision will continue to subject a recipient's private funds to the fee-generating case restrictions in part 1609.

### List of Subjects in 45 CFR Part 1609

Grant programs—law, Legal services.

For reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC amends 45 CFR part 1609 as follows:

## PART 1609—FEE-GENERATING CASES

■ 1. The authority citation for part 1609 continues to read as follows:

**Authority:** 42 U.S.C. 2996f(b)(1); 42 U.S.C. 2996e(c)(1).

■ 2. Section 1609.3 is amended by revising paragraph (a) introductory text to read as follows:

**§ 1609.3 General requirements.**

(a) Except as provided in paragraph (b) of this section, a recipient may not use Corporation funds to provide legal assistance in a fee-generating case unless:

* * * * *

**Victor M. Fortuno,**

*Vice President & General Counsel.*

[FR Doc. 2011–10116 Filed 4–26–11; 8:45 am]

BILLING CODE 7050–01–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Part 207

**RIN 0750–AH12**

### Defense Federal Acquisition Regulation Supplement; Definition of Multiple-Award Contract (DFARS Case 2011–D016)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the definition of multiple-award contract.

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dustin Pitsch, 703–602–0289.

**SUPPLEMENTARY INFORMATION:**

### I. Background

This DFARS case is amending the definition of "multiple-award contract" at DFARS 207.107–2. The revised DFARS language is correcting previous imprecision in implementing the statute. No policy or substantive changes are made. The final rule amendments are made to correct the current definition by—

—Deleting "Orders placed using" to reflect that the multiple-award contract is the basic schedule contract, and not the individual orders placed under it;

—Adding "or Department of Veterans Affairs" to correctly reflect the agencies that have statutory authority to issue schedule contracts; and

—Adding hyphens where appropriate for unit modifiers.

DoD has issued a final rule because this change does not have a significant effect beyond the internal operating procedures of DoD and does not have a significant cost or administrative impact on contractors or offerors. Therefore, public comment is not required in accordance with 41 U.S.C 1707.

### II. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### III. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501 and public comment is not required in accordance with 41 U.S.C. 418b(a).

### IV. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

### List of Subjects in 48 CFR Part 207

Government procurement.

**Mary Overstreet,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 207 is amended as follows:

## PART 207—ACQUISITION PLANNING

■ 1. The authority citation for 48 CFR part 207 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Section 207.170–2 definition of "Multiple award contract" is amended by revising paragraphs (1) and (2) to read as follows:

**207.170–2 Definitions.**

* * * * *

*Multiple-award contract* means—

(1) A multiple-award schedule contract issued by the General Services Administration or Department of Veterans Affairs as described in FAR subpart 8.4;

(2) A multiple award task-order or delivery-order contract issued in accordance with FAR subpart 16.5; or

* * * * *

[FR Doc. 2011–10087 Filed 4–26–11; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Part 232

**RIN 0750–AH19**

### Defense Federal Acquisition Regulation Supplement; Accelerate Small Business Payments (DFARS Case 2011–D008)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

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

**SUMMARY:** DoD is issuing an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to accelerate payments to all small business concerns.

**DATES:** The interim rule is effective April 27, 2011. Comments on the interim rule should be submitted in writing to the address shown below on or before June 27, 2011, to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments, identified by DFARS Case 2011–D008, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting "DFARS Case 2011–D008" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2011–D008." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2011–D008" on your attached document.

○ *E-mail: dfars@osd.mil.* Include DFARS Case 2011–D008 in the subject line of the message.

○ *Fax:* 703–602–0350.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Lee Renna, OUSD (AT&L) DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail). Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lee Renna, 703–602–0764.

**SUPPLEMENTARY INFORMATION:**

### I. Background

DoD is amending the DFARS to accelerate payments for all small business concerns. Currently, DoD assists small disadvantaged business concerns by paying them as quickly as possible after invoices are received and before the normal payment due dates established in the contract. This interim rule removes the term "disadvantaged" from the language at DFARS 232.903 and DFARS 232.906(a)(ii), thereby extending this payment policy uniformly to all small business concerns.

### II. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### III. Regulatory Flexibility Act

DoD expects this rule to have a significant positive economic impact on all small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it extends accelerated payments to all small business concerns. An initial regulatory flexibility analysis has been completed and is summarized as follows:

This interim rule revises DFARS 232.903 and 232.906(a)(ii) to allow accelerated payments to all small business concerns. This rule allows DoD to exercise greater flexibility offered by 5 CFR 1315.5 and FAR 32.903 which permit the use of accelerated payment procedures for small business concerns.

Analysis of the Federal Procurement Data System indicates that approximately 60,000 small businesses had active contracts in Fiscal Year 2010. It is reasonable to assume a similar number of small businesses will be positively affected by the use of accelerated payment procedures.

There are no information collection requirements associated with this rule. This rule does not duplicate, overlap, or conflict with any other Federal rules.

The desired outcome is best achieved by the implementation of the rule as stated herein and there are no other alternatives available to achieve the desired outcome. This rule is expected to have a positive impact on small entities.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2011–D008) in correspondence.

### IV. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Burden Act (44 U.S.C. chapter 35).

### V. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling circumstances exist to promulgate this interim rule without prior opportunity for public comments pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b). This action is necessary to ensure DoD implements cash flow improvements for small business firms as quickly as possible. Accelerating payments is a way to boost the financial health of small businesses. At present, the authority to accelerate payments at DFARS 232.903 and 232.906 is limited

to small disadvantaged business. Implementation of the interim rule will expand that authority to the entire community of DoD's small business suppliers. However, DoD will consider public comments received in response to this interim rule in the formation of the final rule.

**List of Subjects in 48 CFR Part 232**

Government procurement.

**Mary Overstreet,**

*Editor, Defense Acquisition Regulations System.*

Therefore, 48 CFR part 232 is amended as follows:

## PART 232—CONTRACT FINANCING

■ 1. The authority citation for 48 CFR part 232 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Revise section 232.903 to read as follows:

**232.903 Responsibilities.**

DoD policy is to assist small business concerns by paying them as quickly as possible after invoices and all proper documentation, including acceptance, are received and before normal payment due dates established in the contract (*see* 232.906(a)).

**232.906 (Amended)**

■ 3. Amend section 232.906(a)(ii) by removing the word "disadvantaged".

[FR Doc. 2011–10094 Filed 4–26–11; 8:45 am]

BILLING CODE 5001–08–P

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 571

**[Docket No. NHTSA–2004–18794]**

**RIN 2127–AK85**

## Federal Motor Vehicle Safety Standards No. 108; Lamp, Reflective Devices and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** This document responds to seven petitions for reconsideration submitted regarding our August 2004 final rule that amended the Federal motor vehicle safety standard on lamps, reflective devices, and associated equipment. After careful review of the petitions, we are revising certain requirements of the standard pertaining to the visibility of lamps mounted on motorcycles to increase the compatibility of our visibility requirements with those of theUnited Nations Economic Commission for Europe (ECE R53). We are otherwise denying the petitions.

**DATES:** *Effective date:* The final rule is effective May 27, 2011 except for the revision at instruction number 3, which is effective December 1, 2012. Petitions for reconsideration of the final rule must be received not later than June 13, 2011.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. Markus Price, Office of Crash Avoidance Standards (Phone: 202–366–0098; FAX: 202–366–7002).

For legal issues, you may call Mr. Thomas Healy, Office of the Chief Counsel (Phone: 202–366–2992; FAX: 202–366–3820).

You may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Background
II. Petitions for Reconsideration
III. Agency Analysis and Decision
IV. Effective Dates and Compliance Dates
V. Conclusion
VI. Rulemaking Analyses and Notices

### I. Background

The National Highway Traffic Safety Administration (NHTSA) issued a Notice of Proposed Rulemaking (NPRM) in 1995 to address a petition from the Groupe de Travail Working Party "Brussels 1952" (GTB).[1] The petitioner asked the agency to harmonize the U.S. visibility requirements with the United Nations Economic Commission for Europe (UNECE or ECE) requirements. As a result, the agency published a proposal that included several aspects of harmonization including visibility of reflex reflectors (front side, rear, rear side, intermediate), side markers (front, rear, intermediate), front turn, rear turn, stop, front parking, tail, rear fog, high mount stop, and daytime running lamps. In addition, the agency requested comments on allowing amber rear side markers and regulating front and rear fog lamps.

In response to comments received, the agency followed the NPRM with a Supplementary Notice of Proposed Rulemaking (SNPRM)[2] in 1998 that limited the scope to only visibility and terminated proposed rulemaking that would allow an option of providing amber rear side marker lamps and reflectors. The SNPRM proposed using either Society of Automotive Engineers (SAE) or ECE derived visibility requirements. In a separate notice, the issue of regulating front and rear fog lamps was also terminated.[3]

In 2004, NHTSA published a final rule[4] that was based on the UNECE derived visibility requirements. Regarding the method of certification, the final rule stated the visibility requirements could be satisfied by meeting a minimum visible area or by a minimum photometric intensity. The final rule set a compliance date of September 1, 2011 for vehicles that are less than 2032 mm in overall width, and September 1, 2014 for vehicles that are 2032 mm or more in overall width.[5]

### II. Petitions for Reconsideration

Seven petitions for reconsideration were received from automotive manufacturers, lighting suppliers, and motorcycle manufacturers. Petitions for reconsideration were received from the Motor and Equipment Manufacturers Association (MEMA), the Alliance of Automobile Manufacturers (AAM), General Motors (GM), Sierra Products, North American Lighting (NAL), Harley Davidson, and the Motorcycle Industry Council (MIC). Among the seven petitions, six issues were raised that requested reconsideration of the final rule. In addition, there were also several requests, which could be characterized as clarifications, related to the final rule that did not specifically request a rule change. Finally, several general questions were received that are related to FMVSS No. 108 but which are not directly related to the final rule. These items are all summarized below.

*1. Issue Regarding Harmonization of FMVSS No. 108 With ECE Regulation No. 53 (ECE R53) for Vehicles With Less Than 4 Wheels*

Two petitions for reconsideration were received regarding the visibility requirements of motorcycles from

[1] See 60 FR 54833 October 26, 1995.

[2] See 63 FR 68233 December 10, 1998.

[3] See 62 FR 8883 February 27, 1997.

[4] See 69 FR 48805 August 11, 2004.

[5] Dual dimension (80 in) has not been added because it does not appear in the regulation text S5.3.2(b) which is the primary area of interest for this background.

Harley Davidson and MIC. Both of these petitioners supported the goal of standards harmonization, however they argued that the requirements in the final rule did not harmonize with the ECE R53 standard for motorcycles. Specifically, both petitioners stated that ECE R53 allows a narrower field of visibility for front and rear turn signal lamps, and for multiple lamp stop configurations on motorcycles. Additionally, both petitioners recommended decreasing the inboard visibility for motorcycle turn signal lamps from 45 degrees to 20 degrees. They also recommended decreasing the inboard visibility for multiple lamp stop configurations from 45 degrees to 10 degrees.

*2. Issue Whether New Definition for the Effective Projected Luminous Lens Area Changes the Existing Requirements*

MEMA, AAM, and GM claimed that the new definition for the "effective luminous lens area" would influence lamps designed before this final rule was effective. GM requested that the new definition not become mandatory until the new visibility requirements become mandatory on September 1, 2011, or September 1, 2014 depending on the width of the vehicle. AAM requested that the new definition for effective projected luminous lens area apply only to vehicles certified to the new visibility requirements. MEMA objected to what it believes was a lack of notice in changing the definition, as well as the lead time for compliance with the new definition. MEMA also objected to the exclusion of transparent lenses in the calculation of the effective projected luminous lens area.

*3. The Lead Time for Wide Vehicles*

MEMA petitioned that the lead time be increased to at least 15 years for wide vehicles. MEMA focused on two major points, the first being that NHTSA "ignored the substantial cost this rule will impose on lighting suppliers in the heavy vehicle segment." MEMA also stated that "the final rule provides no demonstrated safety benefits."

*4. Compliance Method Choice Is Irrevocable*

MEMA also petitioned that the manufacturer's choice of compliance method should not be irrevocable. MEMA stated that this will limit the selection of catalog lamps that a manufacturer can choose from in the event of an interruption in the supply of the originally certified lamp. MEMA also stated that the safety neutrality of the compliance method makes enforcement of this regulation impossible.

*5. Requirements for Lamps Mounted Less Than 750 mm Above the Road Surface*

MEMA and NAL both petitioned that the photometric requirements of lamps mounted less than 750 mm above the roadway should be clarified. NAL pointed out that the preamble seems to include side marker and clearance lamps in the 750 mm rule, but the regulation text specifies signal lamps and reflective devices. NAL requested that the requirements for side marker and clearance lamps mounted less than 750 mm above the road surface be made clear.

*6. Requirements for Lamps Mounted 15" Above the Road Surface*

Sierra Products suggested that the agency further reduce the photometric requirements of lamps mounted 15 inches above the roadway, on the basis that a reduction in required light below Horizontal-Vertical (H–V) could allow for a more economical lamp.

*7. Additional Questions That Do Not Request a Rule Change, or Are Not Part of This Rulemaking*

Sierra Products asked several questions that do not request a specific rule change. In addition, Sierra Products also asked questions that are not part of this rulemaking. Among those questions, Sierra Products asked why the spacing, position, and color harmonization was abandoned. Also, Sierra Products asked for clarification as to the meaning of "apparent surface" as it was used in the preamble to the final rule. Among other clarification type questions, Sierra Products asked if large vehicle H–V area requirements changed as part of the final rule, and how the area compliance option will be tested for compliance. They also asked why big rigs and boat and utility trailers need reduced constraints on styling for aerodynamic purposes.

Sierra Products asked several questions that are related to FMVSS No. 108, but are not part of this rulemaking. Those included a question about clearance lamp requirements. Sierra Products asked "how can a big rig clearance light that is only effective at auto eye level be seen and understood by following, or passing auto traffic if it is allowed to be mounted 12 feet high and have no inboard photometric output?" They also asked about the use of the latest SAE standards within FMVSS No. 108. In addition, Sierra Products asked for clarification as to the meaning of a multiple compartment lamp, and if a LED is considered a separate lamp. Continuing, Sierra Products asked "where have you discussed in this harmonization proposal that an advertised 100,000 hour LED doesn't hold up when its circuitry is heated or moistened, and who's responsible for the safety implications when a big rig or utility trailer $30 replacement LED brake or turn light can't be found anywhere?" Finally, Sierra Products asked the status of other rulemakings unrelated to the final rule.

**III. Discussion and Analysis**

*1. Issue Regarding Harmonization of FMVSS No. 108 With ECE Regulation No. 53 (ECE R53) for Vehicles With Less Than 4 Wheels*

The agency has considered the issue raised by Harley Davidson and MIC that the final rule failed to harmonize motorcycle lamp visibility with the ECE regulations. MIC stated that it believes the interests of harmonization will be better served by recognizing and harmonizing with the existing ECE regulations for motorcycle lighting. Harley Davidson stated that the agency's failure to incorporate ECE R53 within the final rule means that designs, standard and appropriate throughout the world, may not be able to be used in the U.S. NHTSA has evaluated the merits of this request in connection with harmonization and ensuring safety. In the final rule, we explained our general approach to harmonize the U.S. lamp visibility requirements with the ECE requirements and to increase the field of view of signal lamps.

Specifically for motorcycles, prior to the compliance date specified by the August 2004 final rule, turn signals lamps are required to be visible through a horizontal angle starting at 0 degrees inboard (directly in front of the lamp) and continuing to 45 degrees outboard. The final rule added a vertical component to the field of visibility and increased the horizontal angle to 45 degrees inboard and 45 degrees (area option) or 80 degrees (intensity option) outboard depending on the choice of visibility options. MIC's petition for reconsideration requested that, for motorcycles, the inboard horizontal angle match the requirements in ECE R53, which is 20 degrees inboard. NHTSA considers MIC's petition regarding motorcycle turn signal lamp visibility an improvement over the 2004 final rule as it better harmonizes these requirements with the well established safety standard used in various parts of the world without an expected decrease in safety.

In addition, prior to the compliance date specified by the August 2004 final rule, stop lamps mounted on motorcycles are required to be visible through a horizontal angle 45 degrees inboard to 45 degrees outboard. The 2004 rule added a vertical component to the required field of view. MIC requested that to further harmonize these motorcycle requirements with those of ECE R53, NHTSA should decrease the inboard angle requirement for a two stop lamp configuration. MIC noted that ECE R53 requires, for a two stop lamp configuration, that each lamp meet a horizontal visibility angle of 10 degrees inboard. Because the separation between stop lamps is typically small for motorcycles, NHTSA agrees that harmonizing the inboard visibility requirement is not expected to have a negative impact on safety.

Accordingly, this notice adopts visibility requirements for motorcycle lamps based on the ECE R53 regulation.[6] The standard is modified, establishing visibility requirements for motorcycles defined by the following corner points:

| | | |
|---|---|---|
| Turn Signal | 15 deg. UP–20 deg. IB | 15 deg. UP–80 deg. OB. |
| | 15 deg. DOWN–20 deg. IB | 15 deg. DOWN–80 deg. OB. |
| Stop | 15 deg. UP–45 deg. RIGHT | 15 deg. UP–45 deg. LEFT. |
| | 15 deg. DOWN–45 deg. RIGHT | 15 deg. DOWN–45 deg. LEFT. |
| Tail | 15 deg. UP–80 deg. RIGHT | 15 deg. UP–80 deg. LEFT. |
| | 15 deg. DOWN–80 deg. RIGHT | 15 deg. DOWN–80 deg. LEFT. |

Two footnotes are added to both Table V–b and Table V–c as follows:

If a multiple lamp arrangement is used for a motorcycle stop lamp, the inboard angle for each lamp shall be 10 degrees.

If a multiple lamp arrangement is used for a motorcycle tail lamp, the inboard angle for each lamp shall be 45 degrees.

*2. Issue Whether New Definition for the Effective Projected Luminous Lens Area Changes the Existing Requirements*

MEMA, AAM, and GM claimed that a modified definition for the effective projected luminous lens area changed requirements that were not intended to be changed in the final rule, and petitioned for relief by either a longer lead time, that the definition only apply to vehicles certified to the new visibility requirements, or that the definition be reverted back to its original form. The agency does not agree with the petitioners, nor the suggestions for relief. Instead, we believe that the definition published in the final rule only clarified the definition and that the definition itself did not establish any new requirements.

The definition prior to the final rule stated: "Effective projected luminous lens area means the area of the projection on a plane perpendicular to the lamp axis of the portion of the light-emitting surface that directs light to the photometric test pattern, and does not include mounting hole bosses, reflex reflector area, beads or rims that may glow or produce small areas of increased intensity as a result of uncontrolled light from small areas (½ deg. Radius around the test point)."

The final rule separated this definition into two parts to more specifically define the meaning of the light-emitting surface. It reads as follows:

"Effective light-emitting surface means that portion of a lamp that directs light to the photometric test pattern, and does not include transparent lenses, mounting hole bosses, reflex reflector area, beads or rims that may glow or produce small areas of increased intensity as a result of uncontrolled light from an area of ½ degree radius around a test point."

"Effective projected luminous lens area means the area of the orthogonal projection of the effective light-emitting surface of a lamp on a plane perpendicular to a defined direction relative to the axis of reference. Unless otherwise specified, the direction is coincident with the axis of reference."

This definition clarification has two major aspects. First it clarifies that "projection on a plane" means an orthogonal projection. This clarifies, but does not change, the previous definition. The final rule stated that "we believe these two phrases have the same meaning * * * the term orthogonal projection has greater clarity."[7] The second aspect is the addition of the words "and does not include transparent lenses." This exclusion of transparent lenses is not new with this definition as it reflects a previous agency interpretation letter to Mr. Shigeyoshi Aihara on June 14, 2000.[8] As explained in this interpretation letter, transparent lenses are excluded because they do not direct light, they simply allow light to pass through them freely. Similarly, the dictionary defines transparent as "having the property of transmitting light without appreciable scattering * * *"[9] In consideration of these factors, the agency believes that no significant change in the method by which the effective luminous lens area is calculated has been made by this final rule. As such, there is no reason to delay the effective date as requested by GM, nor to apply this clarified definition only to vehicles certified to the new visibility requirements of the final rule. Likewise, the agency does not agree that a lack of notice was provided. As such, the agency is denying the requests from MEMA, AAM, and GM.

*3. The Lead Time for Wide Vehicles*

MEMA petitioned to adopt a lead time of 15 years for wide vehicles because it believes that NHTSA underestimated the costs. The agency disagrees. The final rule permitted an alternative method of compliance until September 1, 2011 for vehicles less than 2032 mm in overall width, or until September 1, 2014 for vehicles of 2032 mm or more in width. Effectively, this provided the wider vehicles a lead time of 10 years, and 7 years for the more narrow vehicles. The agency believes that the lead time provided is adequate and notes that no new data was submitted indicating manufacturing costs, design constraints, or other information that the agency could evaluate. Similarly, the agency notes that unanticipated design changes would likely be limited to the lamps only, not to the entire vehicle, as was described in the final rule.[10] In consideration of these factors, the agency is denying this request.

*4. Compliance Method Choice Is Irrevocable*

MEMA also requested that the agency eliminate the irrevocable choice of compliance wording from the final rule because it limits the selection of catalog lamps from which a manufacturer can choose. This issue was addressed in the

[6] ECE R53 Revision 2 "Uniform Provisions Concerning the Approval of Category L3 Vehicles with Regard to the Installation of Lighting and Light Signaling Devices."

[7] See FR 48812 August 11, 2004.

[8] Available at *http://isearch.nhtsa.gov/files/20836.ztv.html.*

[9] Webster's Third New International Dictionary.

[10] See 69 FR 48811 August 11, 2004.

comments based on the SNPRM, and the agency decided to carry the wording from the SNPRM into the final rule. The preamble to the final rule states:

"We continue to believe that when a vehicle manufacturer has certified that the vehicle will meet a visibility requirement with a lamp installed and tested according to a chosen compliance method, the method chosen should be used to determine compliance of that vehicle with the visibility requirements applicable to that lamp. This provision is needed for the agency to effectively carry out its enforcement responsibilities. The agency wants to avoid the situation of a manufacturer confronted with an apparent noncompliance (based on a compliance test) with the option it has selected responding to that noncompliance by maintaining that its products comply with a different option for which the agency has not conducted a compliance test. To ensure that the agency will not be asked to conduct multiple compliance tests, first for one compliance option, then for another. This rule requires the vehicle manufacturer to select the option by the time it certifies the vehicle and prohibits it from thereafter selecting a different option." [11]

We note that vehicle manufacturers certify each vehicle to the Federal motor vehicle safety standards. In the case of a standard with compliance options, the manufacturer is not required to select the same compliance option for similar or even identical vehicles, so long as the vehicle being certified complies with the option selected by the manufacturer. Thus, the requirement that a vehicle manufacturer select a particular compliance option by the time it certifies a vehicle does not limit manufacturer design choices.

Therefore, the agency is denying this request.

*5. Requirements for Lamps Mounted Less Than 750 mm Above the Road Surface*

MEMA and NAL petitioned the agency to clarify the requirements for lamps mounted less than 750 mm above the road surface. The agency believes that this ambiguity was resolved in the FMVSS No. 108 administrative rewrite final rule.[12] That final rule contains footnotes within the photometric requirements (Table VI a and b, Table VII, Table VIII, Table IX, Table X, Table XI, Table XIII a and b, Table XIV, and Table XVI a) that explicitly state the "photometry requirements below 5° down may be met at 5° down rather than at the specified required downward angle." Likewise, it also contains similar footnotes within Tables V–b and V–c. Therefore, we believe this request has already been addressed and requires no further action.

*6. Requirements for Lamps Mounted 15 Inches Above the Road Surface*

Sierra Products petitioned the agency to eliminate the downward photometric requirements for lamps mounted 15 inches above the road surface. However, the petitioner did not provide any evidence demonstrating that safety would not be compromised, particularly on uneven roadways. The agency notes that the allowance for lamps mounted less than 750 mm above the road surface was created in order to harmonize FMVSS No. 108 visibility requirements with the ECE visibility requirements. The petitioner does not cite, nor does the agency know of, any allowance for lamps mounted 15 inches above the road surface within the ECE regulation. As such, the agency is denying this request.

*7. Additional Questions That Do Not Request a Rule Change, or Are Not Part of This Rulemaking*

Sierra Products raised several questions that demonstrated a request for clarification. These questions do not request a rule change, and some are not related to this rulemaking. These questions are addressed below.

Sierra Products asked what happened to the proposed harmonization of side marker lamps. The original NPRM did propose allowing rear side markers to be amber in color. This rulemaking proposal was terminated in the SNPRM.[13] [14] The reasons cited for the termination included major differences in the side marker requirements between the U.S. and European regulations, and the lack of data indicating whether it is important for the drivers to know which end of the vehicle is about to merge into their path.

Sierra Products also asked what is meant by the term "apparent surface" as used in the preamble to the final rule. The term "apparent surface" does not appear in the regulations of FMVSS No. 108. However, it does appear in the discussion "How the ECE Visibility Requirements Differ from the Current Requirements of FMVSS No. 108" of the final rule preamble. This term is a well defined term in ECE No. 48. That document states that "the apparent surface for a defined direction of observation means, at the request of the manufacturer or his duly accredited representative, the orthogonal projection of: Either the boundary of the illuminating surface projected on the exterior surface of the lens or the light-emitting surface." The precise definition is only in reference to an ECE regulation, and is not required in the discussion of this rule, nor will it be used to determine compliance with FMVSS No. 108.

Regarding Sierra Products' statement that they could not tell if the H–V area requirement was changed for wide vehicles, we note that no effective projected luminous lens area requirements projected in coincidence to the axis of reference were changed with this rulemaking.

Sierra Products asked how NHTSA would check the compliance of the effective projected luminous lens area requirements. We note that NHTSA's Office of Vehicle Safety Compliance (OVSC) provides contractor laboratories with Laboratory Test Procedures as guidelines for obtaining compliance test data. The data is used to determine if a specific vehicle or item of motor vehicle equipment is potentially non-compliant with an applicable FMVSS. The Laboratory Test Procedure for FMVSS No. 108 is available on NHTSA's Web site.[15] It should be noted that the OVSC Laboratory Test Procedures, prepared for the limited purpose of use by independent laboratories under contract to conduct compliance tests for the OVSC, are not rules, regulations or NHTSA interpretations regarding the meaning of a FMVSS, and are not intended to limit the requirements of the applicable FMVSS(s).

Finally, Sierra Products inquired as to the status of rulemaking that was not part of this rule. Harmonization rules such as "bulb design, bulb tolerance, weathering, non required lamps, clearance lamps, life span, markings, and replacement light sources" will go through the rulemaking process, as appropriate. The remaining statements and questions proposed by Sierra Products either are not related to the final rule, or do not request a specific rule change.

## IV. Effective Dates and Compliance Dates

As noted earlier, the August 2004 final rule set a compliance date of September 1, 2011 for vehicles that are less than 2032 mm in overall width, and September 1, 2014 for vehicles that are 2032 mm or more in overall width.

[11] See 69 FR 48810 August 11, 2004.

[12] See 72 FR 68234 December 4, 2007.

[13] See 60 FR 54833 October 26, 1995.

[14] See 63 FR 68233 December 10, 1998.

[15] Available at *http://www.nhtsa.gov/DOT/TP-108-13.pdf*.

Those compliance dates are not changed by today's rule. There are two effective dates for the amendments we are adopting, one for the current version of FMVSS No. 108 and the second for the FMVSS No. 108 administrative rewrite final rule.

## V. Conclusion

For the reasons discussed above, we are granting the requests to make certain changes pertaining to the visibility of lamps mounted on motorcycles to increase the compatability of our visibility requirements with those of the United Nations Economic Commission for Europe (UNECER53), and we are otherwise denying the petitions.

## VI. Rulemaking Analyses and Notices

*1. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." It is not considered to be significant under E.O. 12866 or the Department's regulatory policies and procedures.

*2. Privacy Act*

Please note that anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, 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.dot.gov/privacy.html.*

*3. Other Rulemaking Analyses and Notices*

In the August 2004 final rule, the agency discussed relevant requirements related to the Regulatory Flexibility Act, the National Environmental Policy Act, Executive Order 13132 (Federalism), the Unfunded Mandates Reform Act, Civil Justice Reform, the National Technology Transfer and Advancement Act, and the Paperwork Reduction Act. Today's rule does not affect the agency's analyses in those areas.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as set forth below.

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of title 49 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Effective May 27, 2011, § 571.108 is amended by revising Figure 19 and Figure 20 to read as follows:

**§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.**

* * * * *

FIGURE 19—VISIBILITY OF INSTALLED LIGHTING DEVICES

[Lens area measurement method]

| Item | Corner points [1] (degrees) |
|---|---|
| Front Turn Signal Lamp [2] | (15U, −45H [5]), (15U,+45H), (15D, −45H [5]), (15D,+45H). |
| Rear Turn Signal Lamp | (15U, −45H [5]), (15U,+45H), (15D, −45H [5]), (15D,+45H). |
| Stop Lamp [3] | (15U, −45H), (15U,+45H), (15D, −45H), (15D,+45H). |
| Parking Lamp | (15U, −45H), (15U,+45H), (15D, −45H), (15D,+45H). |
| Taillamp [4] | (15U, −45H), (15U,+45H), (15D, −45H), (15D,+45H). |

[1] In the horizontal (H) direction, a minus (−) indicates an inwards direction (toward the vehicle's longitudinal centerline) and a plus (+) sign indicates an outward direction.
[2] Where more than one lamp or optical area is lighted at the front on each side of a multipurpose passenger vehicle, truck trailer, or bus, of 2032 mm. or more overall width, only one such area need comply.
[3] If a multiple lamp arrangement is used for a motorcycle stop lamp, the inboard angle for each lamp shall be 10 degrees.
[4] If a multiple lamp arrangement is used for a motorcycle tail lamp, the inboard angle for each lamp shall be 45 degrees.
[5] Front and Rear Turn Signal Lamps mounted on a motorcycle, the inboard angle shall be 20 degrees.

FIGURE 20—VISIBILITY OF INSTALLED LIGHTING DEVICES

[Luminous intensity measurement method]

| Item | Corner points [1] (degrees) | Minimum luminous intensity (candela) |
|---|---|---|
| Front Turn Signal Lamp [2] | (15U, −45H [5]), (15U,+80H), (15D, −45H [5]), (15D,+80H) | 0.3 |
| Rear Turn Signal Lamp | (15U, −45H [5]), (15U,+80H), (15D, −45H [5]), (15D,+80H) | 0.3 |
| Stop Lamp [3] | (15U, −45H), (15U,+45H), (15D, −45H), (15D,+45H) | 0.3 |
| Parking Lamp | (15U, −45H), (15U,+80H), (15D, −45H), (15D,+80H) | 0.05 |
| Taillamp [4] | (15U, −45H [2]), (15U,+80H), (15D, −45H [2]), (15D,+80H) | 0.05 |

[1] In the horizontal (H) direction, a minus (−) indicates an inwards direction (toward the vehicle's longitudinal centerline) and a plus (+) sign indicates an outward direction.
[2] −80H° for motorcycles incorporating a single lamp.
[3] If a multiple lamp arrangement is used for a motorcycle stop lamp, the inboard angle for each lamp shall be 10 degrees.
[4] If a multiple lamp arrangement is used for a motorcycle tail lamp, the inboard angle for each lamp shall be 45 degrees.
[5] Front and Rear Turn Signal Lamps mounted on a motorcycle, the inboard angle shall be 20 degrees.

* * * * *

■ 3. Effective December 1, 2012, § 571.108 is amended by revising Table V–b: Visibility Requirements of Installed Lighting Devices—Lens Area Visibility Option and Table V–c: Visibility Requirements of Installed Lighting Devices—Luminous Intensity Visibility Option, as added at 72 FR

68269 (December 4, 2007), effective September 1, 2008, delayed until December 1, 2009, at 73 FR 50730 (August 28, 2008), and further delayed until December 1, 2012 at 74 FR 58214 (November 12, 2009), to read as follows:

**§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.**

* * * * *

TABLE V–b—VISIBILITY REQUIREMENTS OF INSTALLED LIGHTING DEVICES—LENS AREA VISIBILITY OPTION

| Lighting device | Corner points[1] thnsp;[2] | | | | Required visibility |
|---|---|---|---|---|---|
| | Motorcycle | | All other | | |
| Turn signal lamp[3] | 15° UP–20° IB<br>15° DOWN–20° IB | 15° UP–45° OB<br>15° DOWN–45° OB | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–45° OB<br>15° DOWN–45° OB | Unobstructed minimum effective projected luminous lens area of 1,250 sq mm in any direction throughout the pattern defined by the specified corner points. |
| Stop lamp | 15° UP–45° RIGHT[4]<br>15° DOWN–45° RIGHT[4] | 15° UP–45° LEFT[4]<br>15° DOWN–45° LEFT[4] | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–45° OB<br>15° DOWN–45° OB | |
| Taillamp | 15° UP–45° RIGHT[5]<br>15° DOWN–45° RIGHT[5] | 15° UP–45° LEFT[5]<br>15° DOWN–45° LEFT[5] | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–45° OB<br>15° DOWN–45° OB | |
| Parking lamp | No Requirement<br>No Requirement | No Requirement<br>No Requirement | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–45° OB<br>15° DOWN–45° OB | |

[1] IB indicates an inboard direction (toward the vehicle's longitudinal centerline) and OB indicates an outboard direction.
[2] Where a lamp is mounted with its axis of reference less than 750 mm above the road surface, the vertical test point angles located below the horizontal plane subject to visibility requirements may be reduced to 5° down.
[3] Where more than one lamp or optical area is lighted at the front on each side of a multipurpose passenger vehicle, truck, trailer, or bus, of 2032 mm or more overall width, only one such area need comply.
[4] If a multiple lamp arrangement is used for a motorcycle stop lamp, the inboard angle for each lamp shall be 10 degrees.
[5] If a multiple lamp arrangement is used for a motorcycle tail lamp, the inboard angle for each lamp shall be 45 degrees.

TABLE V–c—VISIBILITY REQUIREMENTS OF INSTALLED LIGHTING DEVICES—LUMINOUS INTENSITY VISIBILITY OPTION

| Lighting device | Corner points[1] [2] | | | | Required visibility Minimum luminous intensity in any direction throughout the pattern defined by the specified corner points. |
|---|---|---|---|---|---|
| | Motorcycle | | All Other | | Candela |
| Turn signal lamp | 15° UP–20° IB<br>15° DOWN–20° IB | 15° UP–80° OB<br>15° DOWN–80° OB | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–80° OB<br>15° DOWN–80° OB. | 0.3 |
| Stop lamp | 15° UP–45° RIGHT[4]<br>15° DOWN–45° RIGHT[4]. | 15° UP–45° LEFT[4]<br>15° DOWN–45° LEFT[4] | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–45° OB<br>15° DOWN–45° OB. | 0.3 |
| Taillamp[3] | 15° UP–80° RIGHT[5]<br>15° DOWN–80° RIGHT[5]. | 15° UP–80° LEFT[5]<br>15° DOWN–80° LEFT[5] | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–80° OB<br>15° DOWN–80° OB. | 0.05 |
| Parking lamp | No Requirement<br>No Requirement | No Requirement<br>No Requirement | 15° UP–45° IB<br>15° DOWN–45° IB | 15° UP–80° OB<br>15° DOWN–80° OB. | 0.05 |

[1] IB indicates an inboard direction (toward the vehicle's longitudinal centerline) and OB indicates an outboard direction.
[2] Where a lamp is mounted with its axis of reference less than 750 mm above the road surface, the vertical test point angles located below the horizontal plane subject to visibility requirements may be reduced to 5° down
[3] Inboard and outboard corner points are 80° for a single taillamp installed on a motorcycle
[4] If a multiple lamp arrangement is used for a motorcycle stop lamp, the inboard angle for each lamp shall be 10 degrees.
[5] If a multiple lamp arrangement is used for a motorcycle tail lamp, the inboard angle for each lamp shall be 45 degrees.

Issued on: March 23, 2011.

**David L. Strickland,**

*Administrator.*

[FR Doc. 2011–10031 Filed 4–26–11; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 101126522–0640–02]**

**RIN 0648–XA394**

## Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 22, 2011, through 1200 hrs, A.l.t., July 1, 2011.

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

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

The second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 300 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish of the GOA (76 FR 11111, March 1, 2011), for the period 1200 hrs, A.l.t., April 1, 2011, through 1200 hrs, A.l.t., July 1, 2011.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder. This closure does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Program for the Central GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 21, 2011.

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

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 22, 2011.

**Emily H. Menashes,**

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

[FR Doc. 2011–10190 Filed 4–22–11; 4:15 pm]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 76, No. 81
Wednesday, April 27, 2011

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 59

**[Doc. No. AMS–LS–11–0037]**

### Wholesale Pork Reporting Negotiated Rulemaking Committee

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

**ACTION:** Notice of negotiated rulemaking committee meeting.

**SUMMARY:** This document announces the third meeting of the Wholesale Pork Reporting Negotiated Rulemaking Committee (Committee). The primary purpose of the Committee is to develop proposed language to amend the Livestock Mandatory Reporting (LMR) regulations to implement mandatory pork price reporting, as directed by the Mandatory Price Reporting Act of 2010 (Pub. L. 111–239).

**DATES:** The Committee meeting will be held Tuesday, May 10, 2011, through Wednesday, May 11, 2011. On both days, the meeting will begin at 8:30 a.m. and is scheduled to end at 5 p.m.

**ADDRESSES:** The meeting will take place at the Holiday Inn National Airport/Crystal City Hotel; 2650 Jefferson Davis Highway; Arlington, VA 22202; Phone (703) 684–7200.

**FOR FURTHER INFORMATION CONTACT:** Michael Lynch, Chief; USDA, AMS, LS, LGMN Branch; 1400 Independence Ave., SW., Room 2619–S; Washington, DC 20250; Phone (202) 720–6231; Fax (202) 690–3732; or email at *Michael.Lynch@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On September 28, 2010, the Mandatory Price Reporting Act of 2010 (2010 Reauthorization Act) reauthorizing LMR for 5 years and adding a provision for mandatory reporting of wholesale pork cuts was enacted. The 2010 Reauthorization Act directed the Secretary to engage in negotiated rulemaking to make required regulatory changes for mandatory wholesale pork reporting. For background on LMR, please see the background section of the Notice of Establishment of Negotiated Rulemaking Committee published November 24, 2010 (75 FR 71568). On January 26, 2011, AMS published a notice announcing the final list of members on the Wholesale Pork Reporting Negotiated Rulemaking Committee, responding to comments from the November 24, 2010, **Federal Register** notice, and announcing the first meeting (76 FR 4554). Previous Committee meetings have been held on February 8–10, 2011, in St. Louis, Missouri, and March 15–17, 2011, in Washington, DC.

#### II. Statutory Provisions

The Negotiated Rulemaking Act of 1996 (5 U.S.C. 561–570); the Mandatory Price Reporting Act of 2010 (Pub. L. 111–239); the Livestock Mandatory Reporting Act of 1999 (7 U.S.C. 1635–1636i); and 7 CFR part 59.

#### III. Negotiated Rulemaking Committee Meeting

This document announces the third meeting of the Committee. The meeting will take place as described in the **DATES** and **ADDRESSES** sections of this notice. The agenda for the meeting will be posted in advance at *http://www.ams.usda.gov/NegotiatedRulemaking.* The agenda will include a review of draft regulatory language and discussion on remaining topics relevant to determining appropriate methodology and scope to implement a mandatory wholesale pork reporting program. These topics may include reporting basis, definitions for wholesale pork and types of sale, and related items. The Committee may, however, modify its agenda during the course of its work.

The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public will be given opportunities to make statements during the meeting at the discretion of the Committee, and will be able to file written statements with the Committee for its consideration. Written statements may be submitted in advance to the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. If future meetings are necessary, they will be announced in the **Federal Register**.

Dated: April 22, 2011.

**David R. Shipman,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–10209 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–02–P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 72 and 73

**RIN 3150–AI78**

**[NRC–2009–0558]**

### Public and Closed Meeting To Discuss Comments on Draft Regulatory Basis for Rulemaking Revising Security Requirements for Facilities Storing Spent Nuclear Fuel and High-Level Radioactive Waste

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) will participate in a public and closed meeting with affected stakeholders to discuss comments relevant to the staff's draft regulatory basis (previously referred to as the draft technical basis) for the forthcoming security rulemaking, "Security Requirements for Radiological Sabotage," to revise the security requirements for facilities storing spent nuclear fuel (SNF) and high-level radioactive waste (HLW). This meeting is a follow-up to the NRC's notice of availability of the draft technical basis and solicitation of public comments (74 FR 66589; December 16, 2009) to confirm that an adequate regulatory basis exists to proceed with rulemaking to issue new risk-informed and performance-based security regulations for SNF and HLW storage facilities. This portion of the meeting is open to the public and all interested parties may attend.

The NRC is also presenting information on independent spent fuel storage installation (ISFSI) vulnerability studies and information on proposed new regulatory guide, Draft Guide-5033, "Security Performance (Adversary) Characteristics for Physical Security Programs for 10 CFR [Title 10 of the

Code of Federal Regulations] PART 72 Licensees." This portion of the meeting will be closed under Exemptions 3.b of the Commission's policy statement,[1] due to the expected discussion of safeguards information.

**DATES:** Date and Time for Closed Session: Monday, May 2, 2011, 9 a.m. to 12:30 p.m. (Eastern Daylight Time).

Date and Time for Open Session: Monday, May 2, 2011, 1:30 p.m. to 5:30 p.m. (Eastern Daylight Time).

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

**FOR FURTHER INFORMATION CONTACT:** Dennis Andrukat, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3561; e-mail: *Dennis.Andrukat@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

## Background

The forthcoming rulemaking would revise 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste," and 10 CFR part 73, "Physical Protection of Plants and Materials," that would apply during the storage of SNF at an ISFSI and the storage of SNF and HLW at a monitored retrievable storage installation.

The NRC requires high assurance of adequate protection of public health and safety, the common defense and security, and the environment for the secure storage of SNF and HLW. The NRC meets this strategic goal by requiring ISFSI licensees to comply with security requirements specified in 10 CFR part 73. Following the terrorist attacks of September 11, 2001, the NRC has continued to achieve this requisite high assurance for all facilities licensed to store SNF through a combination of these existing security regulations and the issuance of security orders to individual licensees.

Based on the Commission's direction presented in SRM–SECY–10–0114 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML103210025) and the comments received in response to the **Federal Register** notice published on December 16, 2009 (74 FR 66589; ADAMS Accession No. ML093340103), the staff is hosting this meeting to discuss our understanding of the comments received.

The NRC notes that the public, licensees, certificate holders, and other stakeholders will have a future opportunity to comment on the proposed rulemaking when that document is published in the **Federal Register**.

## Availability of Documents

The following table indicates the related documents that are available to the public and how they may be obtained.

| Document | PDR | Web | NRC Library (ADAMS) |
|---|---|---|---|
| Draft Technical Basis, Revision 1 (December 2009) [NRC–2009–0558] | X | X | ML093280743 |
| Commission: SECY–10–0114 (August 26, 2010) | X | | ML101960614 |
| Commission: SRM–SECY–10–0114 (November 16, 2010) | X | X | ML103210025 |
| Commission: SECY–07–0148 (redacted) (August 28, 2007) | X | X | ML080030050 |
| Commission: SRM–SECY–07–0148 (December 18, 2007) | X | X | ML073530119 |
| Public Meeting Notice (March 20, 2011) | X | | ML110880263 |

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Public File Area O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's ADAMS:* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of 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*. A public meeting notice with attached agenda and maps to meeting location is available electronically in ADAMS under Accession No. ML110880263.
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2009–0558.

## Availability of Services

The NRC provides reasonable accommodations to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this meeting (e.g., sign language), or need this meeting notice or other information from the meeting in another format, please notify the NRC meeting contact, Dennis Andrukat at 301–415–3561 by April 11, 2011, so arrangements can be made.

All expected attendees must register with the NRC meeting contact by close of business on April 18, 2011. Attendees planning to attend the closed portion must provide their full name, company/organization, last four of their social security number, phone number, acknowledgement of current access to Safeguards Information (SGI) or Classified Information, and basis for need-to-know in order to verify that they are cleared for access to SGI.

No electronic devices will be allowed in the auditorium during the closed portion of the meeting, this includes cell phones, laptops, pagers, PDA's, etc. All attendees are to use rear auditorium entrance. The NRC is accessible to the White Flint Metro Station. Visitor parking near the NRC buildings is limited.

Dated at Rockville, Maryland, this 18th day of April 2011.

For the Nuclear Regulatory Commission.

**Sandra L. Wastler,**

*Branch Chief, Materials, Waste and International Security Branch, Division of Security Policy, Office of Nuclear Security and Incident Response.*

[FR Doc. 2011–10169 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

[1] "Commission's Policy Statement on Enhancing Public Participation in NRC Meetings" (67 FR 36920; May 28, 2002).

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 73

**[NRC–2011–0018; NRC–2011–0014; NRC–2011–0015; NRC–2011–0017]**

**RIN 3150–AI49**

## Enhanced Weapons, Firearms Background Checks, and Security Event Notifications

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule: Extension of comment period.

**SUMMARY:** On February 3, 2011 (76 FR 6200), the Nuclear Regulatory Commission (NRC or the Commission) published a proposed rule [NRC–2011–0018] for a 90-day public comment period that would implement its authority under the new Section 161A of the Atomic Energy Act of 1954 (AEA), as amended, and revise existing regulations governing security event notifications. These proposed regulations are consistent with the provisions of the Firearms Guidelines the NRC published under Section 161A with the approval of the U.S. Attorney General on September 11, 2009 (74 FR 46800). In addition, the NRC proposed revisions addressing security event notifications from different classes of facilities and the transportation of radioactive material and would add new event notification requirements on the theft or loss of enhanced weapons.

Concurrent with the amendments described in this proposed rule, the NRC published for comment the draft "*Weapons Safety Assessment*" (76 FR 6087) [NRC–2011–0017], the draft Regulatory Guide DG–5020, "*Applying for Enhanced Weapons Authority, Applying for Preemption Authority, and Accomplishing Firearms Background Checks under 10 CFR Part 73*" (76 FR 6086) [NRC–2011–0015], and the revised Regulatory Guide DG–5019, "*Reporting and Recording Safeguards Events*" (76 FR 6085) [NRC–2011–0014]. A 90-day comment period was provided for the proposed rule, the weapons safety assessment, and the associated regulatory guidance documents that would have expired on May 4, 2011.

The NRC is extending the comment period submittal deadline by an additional 90 days for the proposed rule, the associated regulatory guidance documents, and the weapons safety assessment from the original May 4, 2011, deadline to August 2, 2011.

**DATES:** The comment period for the proposed rule, the draft weapons safety assessment, and the draft regulatory guides (DG–5019 and DG–5020) has been extended and now expires on August 2, 2011. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** Please include the applicable Docket ID: NRC–2011–0018 (proposed rule); NRC–2011–0014 (DG–5019); NRC–2011–0015 (DG–5020); or NRC–2011–0017 (draft weapons safety assessment) in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.Regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments on the proposed rule [NRC–2011–0018] by any one of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under the applicable Docket ID: NRC–2011–0018. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *E-mail comments to: Rulemaking.Comments@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays, (telephone: 301–415–1677).
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

You may submit comments on DG–5019 [NRC–2011–0014]; DG–5020 [NRC–2011–0015]; or the draft weapons safety assessment [NRC–2011–0017] by any one of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0014 (DG–5019); NRC–2011–0015 (DG–5020); or NRC–2011–0017 (draft weapons safety assessment). Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

*Fax comments to:* RADB at 301–492–3446.

You can access publicly available documents related to the proposed rule and draft regulatory guides documents using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*
- *Federal Rulemaking Web Site:* Public comments and supporting materials related to the proposed rule and draft regulatory guides can be found at *http://www.regulations.gov* by searching the applicable Docket ID: NRC–2011–0018 (proposed rule); NRC–2011–0014 (DG–5019); NRC–2011–0015 (DG–5020); or NRC–2011–0017 (draft weapons safety assessment).

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Beall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–3874; e-mail: *Robert.Beall@nrc.gov;* or Mr. Philip Brochman, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–6557; e-mail: *Phil.Brochman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** On February 16, 2011, the NRC received a letter (ADAMS Accession Number ML110480470) requesting that the

comment period for the proposed rule, the draft weapons safety assessment, and the draft regulatory guides be extended. The request was to extend the comment period by an additional 90 days for a total of 180 days. The requestor states they are coordinating the industry comments on the proposed ruling and associated documents to ensure that the comments are of high quality and that they reflect a consensus industry perspective. They also state that the comment period provided in the February 3, 2011, **Federal Register** notice is insufficient, given the complexity of the topical area and the number of documents associated with the rule. The requester states that extending the comment period would provide the time necessary to more fully assess the content of the proposed ruling and associated documents and arrive at a set of comments that are of value to the NRC staff.

The NRC's objective is to ensure the public and other stakeholders have a reasonable opportunity to provide the NRC with comments on this proposed action that will improve the quality of these regulations and the supporting guidance documents. The NRC acknowledges this is a new area of regulation and that a significant quantity of information must be reviewed by the public and other stakeholders. Accordingly, the NRC is extending the comment period for the proposed rulemaking, the draft regulatory guides, and the draft weapons safety assessment for an additional 90 days. Based on feedback from stakeholders, the NRC believes that a 90-day extension provides a reasonable opportunity for all stakeholders to review these documents and to develop informed comments on these documents.

Accordingly, the NRC is extending the comment submittal deadlines for the proposed rule, the draft weapons safety assessment, and the two draft regulatory guides (DG–5019 and DG–5020) from May 4, 2011, to August 2, 2011.

Dated at Rockville, Maryland, this 21st day of April 2011.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2011–10163 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 366

**[Docket No. RM11–12–000]**

## Availability of E-Tag Information to Commission Staff

**AGENCY:** Federal Energy Regulatory Commission, Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to revise its regulations to require the Commission-certified Electric Reliability Organization to make available to Commission staff, on an ongoing basis, access to complete electronic tagging data used to schedule the transmission of electric power in wholesale markets. This information will aid the Commission in market monitoring and preventing market manipulation, help assure just and reasonable rates, and aid in monitoring compliance with certain business practice standards adopted by the North American Energy Standards Board and incorporated by reference into its regulations and public utility tariffs by the Commission. The Commission is also considering making this information available to entities involved in market monitoring functions and invites comments on this option.

**DATES:** Comments on the proposed rule are due June 27, 2011.

**ADDRESSES:** You may submit comments identified by Docket No. RM11–12–000, by one of the following methods:

- *Agency Web Site: http://ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of the preamble for additional information on how to file paper comments.

**FOR FURTHER INFORMATION CONTACT:**

Maria Vouras (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8062, E-mail: *maria.vouras@ferc.gov.*

William Sauer (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–6639, E-mail: *william.sauer@ferc.gov.*

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Telephone: (202) 502–8321, E-mail: *gary.cohen@ferc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Notice of Proposed Rulemaking

*(April 21, 2011)*

1. In this Notice of Proposed Rulemaking (NOPR), the Federal Energy Regulatory Commission (Commission) proposes, pursuant to § 307(a) and § 309 of the Federal Power Act (FPA),[1] to amend its regulations to require the Electric Reliability Organization (ERO) certified by the Commission under § 39.3 of the Commission's regulations [2] to make available to Commission staff, on an ongoing basis, access to the complete electronic tags (e-Tags) used to schedule the transmission of electric power interchange transactions in wholesale markets.[3] The Commission proposes to require the ERO to provide access to e-Tags, rather than requiring individual market participants to provide such access, so as to avoid imposing this burden on market participants of submitting e-Tags with both the ERO and the Commission.

### I. Background

2. The North American Electric Reliability Corporation (NERC), formerly known as the North American Electric Reliability Council, was established in 1968, in response to the 1965 electricity blackout in the northeast. At that time, the industry-created council included nine regional reliability groups, began regional planning coordination, and developed voluntary operations criteria and guides. Over the years, NERC modified its membership rules and governing structure and, in 2006, the Commission approved NERC's application to become the ERO for the United States.[4]

[1] 16 U.S.C. 791a, *et seq.*

[2] 18 CFR 39.3 (2010).

[3] For purposes of this NOPR, "complete e-Tags" refers to (1) e-Tags for interchange transactions scheduled to flow into, out of or within the United States' portion of the Eastern or Western Interconnections, or into or out of the Electric Reliability Council of Texas and into or out of the United States' portion of the Eastern or Western Interconnections, and (2) information on every aspect of the e-Tag, including all applicable e-Tag-IDs, transaction types, market segments, physical segments, profile sets, transmission reservations, and energy schedules.

[4] *North American Electric Reliability Corporation,* 116 FERC ¶ 61,062 (2006), *order on reh'g,* 117 FERC

3. The North American Energy Standards Board (NAESB) is a non-profit standards development organization established in January 2002 that serves as an industry forum for the development of business practice standards. NAESB has developed a number of business practice standards that the Commission has incorporated by reference into its regulations, thus making compliance with these standards a mandatory Commission requirement.[5]

4. NERC and NAESB coordinate the development of business practices and reliability standards for the wholesale electric industry. The members and staff of NERC and NAESB actively participate in both organizations, and NERC is a member of the NAESB Wholesale Electric Quadrant. NAESB representatives participate in NERC technical committees and regularly attend meetings of the Member Representatives Committee and Board of Trustees.

5. NERC and NAESB use a joint coordination procedure to ensure tight integration of their respective standards development processes where reliability and commercial needs are closely related. Some examples where such coordination has been required are electronic tagging, transmission loading relief (TLR) procedures, and determination of available transfer capability. This coordination includes joint meetings, inter-organizational reviews of standards and comments, and often jointly developed filings.

6. E-Tags, also known as Requests for Interchange, are used to schedule interchange transactions[6] in wholesale markets.[7] NERC and/or Regional Entities (such as WECC) collect all e-Tag data in near real-time to assist Reliability Coordinators in identifying transactions that need to be curtailed for relieving overload when transmission constraints occur. E-Tags are included in the business practice standards adopted by NAESB and incorporated by reference into its regulations and public utility tariffs by the Commission.[8]

7. Currently, the Commission and its staff do not have access to the complete e-Tags used for interchange transactions. We believe that access to this information would enhance the Commission staff's efforts to monitor market developments and prevent market manipulation, assure just and reasonable rates, and in monitoring compliance with certain NAESB business practice standards.[9]

8. Accordingly, in this NOPR, the Commission proposes to require the Commission-certified ERO to make available to Commission staff on an ongoing, non-public basis the complete e-Tags used to schedule the transmission of electric power in wholesale markets. In addition, while not specifically proposed in this NOPR, the Commission is inviting comments on whether the Commission should require that complete e-Tags be made available to entities involved in market monitoring of RTOs and ISOs. Commenters should consider this broader availability option as within the scope of options being considered in this rulemaking.

## II. Discussion

9. In this NOPR, the Commission proposes to require the ERO to provide Commission staff with access to the e-Tags used to schedule interchange transactions in wholesale markets on a non-public basis. Under the FPA, the Commission has authority over public utilities that make wholesale power sales or that provide wholesale transmission service to report the details of their transactions, including complete e-Tag data. Additionally, under § 307(a) of the FPA, the Commission has, among its powers, authority to investigate any facts, conditions, practices, or matters it may deem necessary or proper to determine whether any person, electric utility, transmitting utility or other entity may have violated or might violate the FPA or the Commission's regulations, or to aid in the enforcement of the FPA or the Commission regulations, or to obtain information about wholesale power sales or the transmission of power in interstate commerce.

10. The Commission proposes to require the ERO (NERC) rather than individual market participants to provide access to the e-Tag data to avoid burdening market participants with a requirement to file the same data with both NERC and the Commission. In addition, obtaining access from one entity (*i.e.,* NERC) will avoid burdening the Commission with developing and maintaining a new system to capture such data from individual market participants.

11. E-Tagging was first implemented by NERC on September 22, 1999, as a process to improve the speed and efficiency of the tagging process, which had previously been accomplished by e-mail, facsimile, and telephone exchanges.[10] E-Tags require that, prior to scheduling transactions, one of the market participants involved in a transaction must submit certain transaction-specific information, such as the source and sink control areas (now referred to as Balancing Authority Areas) and control areas along the contract path, as well as the transaction's level of priority and transmission reservation Open Access Same-Time Information System reference numbers, to control area operators and transmission operators on the contract path.[11]

12. Communication, submission, assessment, and approval of an e-Tag must be completed before the interchange transaction is implemented.[12] The Interchange Scheduling and Coordination (INT) group of Reliability Standards sets forth requirements for implementing interchange transactions through e-Tags. E-Tags are submitted pursuant to the business practices set forth by NAESB.

¶ 61,126 (2006), *order on compliance,* 118 FERC ¶ 61,030 (2007).

[5] *See, e.g., Standards for Business Practices and Communication Protocols for Public Utilities,* Order No. 676, FERC Stats. & Regs., Regulations Preambles ¶ 31,216 (2006), *reh'g denied,* Order No. 676–A, 116 FERC ¶ 61,255 (2006).

[6] NERC's *Glossary of Terms Used in Reliability Standards* (updated April 20, 2009) defines an interchange transaction as "[a]n agreement to transfer energy from a seller to a buyer that crosses one or more Balancing Authority Area boundaries." *See http://www.nerc.com/files/Glossary_2009April20.pdf* (page 10 of 21) (last visited on March 23, 2011).

[7] E-Tag Transaction Tags are part of the Interchange Distribution Calculator and Websas that are used in the TLR procedure IRO–006–4.1 and WECC Unscheduled Flow Standard IRO–STD–006–0 for the Eastern and Western Interconnection, respectively.

[8] NAESB Wholesale Electric Quadrant (WEQ) Business Practice Requirement 004–2 states that the "primary method of submitting the Request for Interchange (RFI) to the Interchange Authority shall be an e-Tag using protocols in compliance with the *Electronic Tagging Functional Specification, Version 1.8.*" *See NAESB Wholesale Electric Quadrant (WEQ) Business Practice Standards (Version 002.1),* published March 11, 2009. More recently, NERC has updated its tagging specifications, *see infra* n.12, but this update is not reflected in the WEQ Version 002.1 business practice standards incorporated by reference by the Commission.

[9] Having access to e-Tags would allow Commission staff to electronically download, receive and store data, as necessary and appropriate. Under the NOPR proposal, Commission staff would gain access to the e-Tag data that is currently being collected and stored in databases by private vendors under contract with NERC.

[10] *Open-Access Same-Time Information System and Standards of Conduct,* 90 FERC ¶ 61,070, at 61,258–59 (2000) (Order Denying Cease and Desist Order).

[11] *Id.*

[12] *See Mandatory Reliability Standards,* Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 795, *order on reh'g,* Order No. 693–A, 120 FERC 61,053 (2007); *see also Revised Mandatory Reliability Standards for Interchange Scheduling, Coordination,* Order No. 730 at P 7 & n.19. E-Tags are implemented through the requirements set forth in the *NAESB Electronic Tagging Functional Specifications,* Version 1.8.1 (Oct. 27, 2009).

Those business practices set forth the requirements for a proper e-Tag to permit an Interchange Authority to accept and process the e-Tag. NERC collects all e-Tags in near real-time that are used in the congestion management tools to identify which transaction tags must be curtailed to mitigate the overload when transmission constraints occur.

13. Two early cases addressed the issue of whether public utilities would need to comply with NERC's e-Tag requirements as a precondition to making wholesale power sales.[13] In *Coalition Against Private Tariffs,* 83 FERC ¶ 61,015, *reh'g denied,* 84 FERC ¶ 61,050 (1998), the Commission dismissed a motion requesting it to order public utilities to cease and desist from requiring compliance with NERC's tagging plan as a condition to scheduling transactions.[14] In addition, the Commission found that "the information required to be submitted by the NERC tagging plan is consistent with the information already required to be submitted under a Transmission Provider's compliance tariff,"[15] so that the tagging plan did not require a change to terms and conditions of OATTs on file with the Commission.

14. In another early order involving e-Tags,[16] the Commission denied a motion for a cease and desist order and found that the e-Tag system has generally improved the reliability and efficiency of the transmission system and facilitates the access of system transmission operators to critical information that can be used to analyze "the way in which a particular transaction may impact transmission system stability".[17] Moreover, the Commission found that the e-Tag system is an important element of Next Hour Market Service.[18]

15. We believe that obtaining access to complete e-Tag data will help the Commission to detect anti-competitive or manipulative behavior or ineffective market rules, monitor the efficiency of the markets, and better inform Commission policies and decision-making. Thus, the Commission proposes to require the ERO to provide access to complete e-Tag data on a non-public basis to Commission staff. For example, by using e-Tag data, in coordination with other resources,[19] the Commission will be able to better identify interchange schedules that appear anomalous or inconsistent with rational economic behavior. In this regard, access to e-Tag data would allow the Commission's staff to examine more effectively situations where interchange schedules are absent even when transmission capacity is available and pricing differences between the two locations ought to be sufficient to encourage transactions between those locations. Such a circumstance could signal a market issue or other problem. In addition, Commission access to e-Tags would help facilitate Commission audits or investigations in cases where e-Tags are relevant.

16. In light of the various Commission uses for e-Tag data, we propose to locate this requirement within § 366.2 of our regulations, which governs Commission access to books and records. Thus, we propose to revise § 366.2 of our regulations to redesignate the current paragraph (d) as paragraph (e), and to add a new paragraph (d) establishing a formal requirement for the ERO to make this information available on an ongoing basis to the Commission's Staff. By establishing this requirement as part of § 366.2, it is clear that, under the newly designated paragraph (e), the information would be kept confidential and would not be made publicly available, except as directed by the Commission, or a court with appropriate jurisdiction.[20]

17. Currently, the access of market monitoring units (MMUs) for RTOs and ISOs to e-Tag data is often limited to schedules with contract paths in the market that the MMU is tasked with monitoring.[21] Allowing MMUs access to complete e-Tag data may improve their ability to monitor loop flows and their corresponding market impacts.

18. Accordingly, the Commission invites comment on whether this information should be made available to MMUs. If so, should the data be provided to MMUs on a real-time basis? The Commission also invites comment on whether making the data available to MMUs would raise confidentiality issues or require specific confidentiality provisions. For example, should such entities sign a confidentiality agreement in order to access the information? In addition, the Commission invites comment on what would be the benefit(s) or drawback(s) to the Commission obtaining this information from individual market participants rather than NERC.

## III. Information Collection Statement

19. The following collection of information contained in this proposed rule is being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to this collection of information unless the collections of information display a valid OMB Control number.

20. The proposed rule makes information available to Commission staff, but does not require, as part of the proposals in this NOPR, that NERC collect any new information, repackage the information into any kind of report, or make any computations or adjustments to the raw information. This being the case, the Commission estimates that the reporting burden

[13] We note, however, that the use of e-Tags is not limited to transactions involving public utilities.

[14] 83 FERC at 61,039.

[15] 84 FERC at 61,235.

[16] *Open Access Same-Time Information Systems and Standards of Conduct,* 90 FERC ¶ 61,070, at 61,260–62 (2000) (Order Denying Cease and Desist Order).

[17] *Id.,* 90 FERC at 61,262.

[18] *Id.*

[19] For instance, in Docket No. RM10–12–000, the Commission is issuing a NOPR concurrently with this NOPR, whereby the Commission proposes that e-Tag IDs be included in the transaction details reported in Electric Quarterly Reports.

[20] In a NOPR on *Electricity Market Transparency Provisions of Section 220 of the Federal Power Act,* in Docket No. RM10–12–000, being issued concurrently with this NOPR, the Commission proposes to require individual market participants to file, if applicable, e-Tag IDs as part of their publicly-available Electric Quarterly Report (EQR). An e-Tag ID is a subset of the information in a complete e-Tag that contains information about the source Balancing Authority in which the generation is located; a unique transaction identifier assigned by the e-Tag system when transmission service to accommodate the transaction is reserved; and the sink Balancing Authority in which the load is located. The Commission believes that the information contained in e-Tag IDs is not privileged or confidential.

Unlike the public availability of e-Tag "ID" information proposed in Docket No. RM10–12–000, in the instant proceeding in Docket No. RM11–12–000, the Commission is proposing to keep all other ("non-ID") e-Tag data non-public. We note that persons could file a request to obtain such data through a request under the Freedom of Information Act (FOIA). The Commission, however, is of the view that these data would be covered by exemption 4 of FOIA, which protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. 552(b)(4) (2006), *amended by* OPEN Government Act of 2007, Public Law 110–175, 121 Stat. 2524. Accordingly, these data would not be obtainable under the FOIA in that circumstance.

[21] *See Electronic Tagging Functional Specifications, Version 1.8.1* (Oct. 27, 2009), Joint Electric Scheduling Subcommittee, North American Energy Standards Board—Wholesale Electric Quadrant, at 9, 23, and 64.

associated with compliance with this proposed rule is *de minimis,* and is limited to reviewing the Commission ruling and providing permission for staff to access the information.

| Data collection FERC–740 | Number of respondents annually (1) | Number of responses per respondent (2) | Hours per response (3) | Total annual burden hours (1)×(2)×(3) |
|---|---|---|---|---|
| NERC | 1 | 1 | 7 | 7 |

*Total Annual Hours for Collection*

Reporting = 7 hours.

*Information Collection Costs:* The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost to be the following:

Total Annualized Cost = $840 (7 hours @ $120/hr [22]).

21. OMB regulations [23] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting notification of this proposed rule to OMB. These information collections are mandatory requirements.

*Title:* (Proposed) FERC–740, Availability of e-Tag Information to Commission Staff.

*Action:* Proposed collection.

*OMB Control No.:* To be determined.

*Respondent:* NERC.

*Frequency of Responses:* On occasion.

*Necessity of the Information:* This proposed rule, if implemented, would aid the Commission in market monitoring and preventing market manipulation, in assuring just and reasonable rates, and in monitoring compliance with certain business practice standards adopted by NAESB and incorporated by reference by the Commission.

22. The information collection requirements of this proposed rule are based on NERC reviewing the documents in this proceeding and providing permission for Commission staff to access to the complete e-Tag data reported to NERC.

23. *Internal Review:* The Commission has made a preliminary determination that the proposed revisions are necessary to assure compliance with Commission-incorporated business practice standards, to monitor market transactions to determine if entities are engaged in market manipulation, and to assure just and reasonable rates. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimate associated with the information requirements.

24. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, Attn: Ellen Brown, Information Collection Officer, 888 First Street, NE., Washington, DC 20426. E-mail: *DataClearance@ferc.gov.* Phone: (202) 502–8663, fax: (202) 273–0873.

25. Comments concerning the information collections proposed in this NOPR and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by e-mail to OMB at the following e-mail address: *oira_submission@omb.eop.gov.* Please reference FERC–740 and Docket No. RM11–12–000 in your submission.

## IV. Environmental Analysis

26. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[24] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[25] The actions proposed here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of electric power that requires no construction of facilities.[26] Therefore, an environmental assessment is unnecessary and has not been prepared in this NOPR.

## V. Regulatory Flexibility Act Certification

27. The Regulatory Flexibility Act of 1980 (RFA) [27] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. Section 601(3) of the RFA defines a "small business" as having the same meaning as "small business concern" under section 3 of the Small Business Act. This term includes any firm that is "independently owned and operated" and is "not dominant in its field of operation." The regulations proposed here impose requirements only on NERC,[28] which, as the single ERO for the United States, is not a small business.[29]

- Provides electricity to 334 million people
- Has a total electricity demand of 830 gigawatts (830,000 megawatts)
- Has 211,000 miles or 340,000 km of high-voltage transmission line (230,000 volts and greater)
- Represents more than $1 trillion (U.S.) worth of assets."

We also note that, in *North American Electric Reliability Corporation,* 133 FERC ¶ 61,062, at P 15, 19 (2010), the Commission conditionally approved NERC's 2011 budget, which exceeds $53 million.

28. The Commission has followed the provisions of the RFA concerning potential impact on small business and

[22] This is a composite figure taking into account legal ($200/hr) and technical ($40/hr) staff.

[23] 5 CFR 1320.11.

[24] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles ¶ 30,783 (1987).

[25] 18 CFR 380.4.

[26] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[27] 5 U.S.C. 601–612.

[28] According to the NERC Web site, *http://www.nerc.com* (under fast facts), (last visited on March 23, 2011), NERC is "an international, independent, not-for-profit organization, whose mission is to ensure the reliability of the bulk power system in North America." The Web site also states that "NERC oversees reliability for a bulk power system that:

[29] 15 U.S.C. 632. The Small Business Administration has developed size standards to carry out the purposes of the Small Business Act and those size standards can be found in 13 CFR 121.201. A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

other small entities. As this rulemaking, if implemented, would impose *no* burden on small entities, the Commission hereby certifies, pursuant to section 605(b) of the RFA,[30] that the regulations proposed herein will not have a significant economic impact on a substantial number of small entities.

**VI. Comment Procedures**

29. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due June 27, 2011. Comments must refer to Docket No. RM11–12–000, and must include the commenter's name, the organization they represent, if applicable, and their address.

30. The Commission encourages commenters to file electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing.

31. Commenters unable to file comments electronically must mail or hand deliver an original copys of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC, 20426. These requirements can be found on the Commission's Web site, *see, e.g.,* the "Quick Reference Guide for Paper Submissions," *available* at *http://www.ferc.gov/docs-filing/efiling.asp* or via phone from FERC Online Support at (202) 502–6652 or toll-free at 1–866–208–3676.

32. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

**VII. Document Availability**

33. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

34. From FERC's Home Page on the Internet, this information is available in the eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

35. User assistance is available for eLibrary and the FERC's Web site during our normal business hours. For assistance contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

**List of Subjects in 18 CFR Part 366**

Electric power, and Reporting and recordkeeping requirements.

By direction of the Commission.

**Kimberly D. Bose,**

*Secretary.*

In consideration of the foregoing, the Commission proposes to revise Chapter I, Title 18, part 366 of the Code of Federal Regulations, as follows:

## PART 366—BOOKS AND RECORDS

1. The authority citation for part 366 continues to read as follows:

**Authority:** 15 U.S.C. 717 *et seq.,* 16 U.S.C. 791a *et seq.,* and 42 U.S.C. 16451–16463.

2. In § 366.2, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

**§ 366.2 Commission access to books and records.**

* * * * *

(d) *Electric Reliability Organization.* The Electric Reliability Organization certified by the Commission under § 39.3 of this chapter will make available to Commission staff, on an ongoing basis, access to the complete electronic tags (e-Tags), or any successor to e-Tags, used to schedule the transmission of electric power in wholesale markets. The complete e-Tag data to be made available under this section shall consist of e-Tags for interchange transactions scheduled to flow into, out of or within the United States' portion of the Eastern or Western Interconnections, or into or out of the Electric Reliability Council of Texas and into or out of the United States' portion of the Eastern or Western Interconnections.

* * * * *

[FR Doc. 2011–10119 Filed 4–26–11; 8:45 am]

BILLING CODE 6717–01–P

[30] 5 U.S.C. 605(b).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Chapter I

**[Docket No. FDA–2011–N–0259]**

### Periodic Review of Existing Regulations; Retrospective Review Under E.O. 13563

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification for request for comment.

**SUMMARY:** In accordance with Executive Order 13563, "Improving Regulation and Regulatory Review," the Food and Drug Administration (FDA) is conducting a review of its existing regulations to determine, in part, whether they can be made more effective in light of current public health needs and to take advantage of and support advances in innovation. The goal of this review of existing regulations, as with our other reviews, is to help ensure that FDA's regulatory program is more effective and less burdensome in achieving its regulatory objectives. FDA is requesting comment and supporting data on which, if any, of its existing rules are outmoded, ineffective, insufficient, or excessively burdensome and thus may be good candidates to be modified, streamlined, expanded, or repealed. As part of this review, FDA also invites comment to help us review our framework for periodically analyzing existing rules.

**DATES:** Submit either electronic or written comments by June 27, 2011.

**ADDRESSES:** You may submit comments, identified by Docket No. FDA–2011–N–0259, by any of the following methods:

**Electronic Submissions**

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

**Written Submissions**

Submit written submissions in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

*Instructions:* All submissions received must include the Agency name and Docket No. FDA–2011–N–0259 for this rulemaking. All comments received may

be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Request for Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Lisa Helmanis, Office of Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3216, Silver Spring, MD 20993–0002, 301–796–9135.

**SUPPLEMENTARY INFORMATION:** On February 2, 2011, President Barack Obama issued Executive Order (E.O.) 13563, "Improving Regulation and Regulatory Review." One of the provisions in the new Executive order is the affirmation of retrospective reviews of existing significant regulations. FDA already has several processes in place to ensure periodic review of its existing regulations, including those that are significant, and will continue to enhance these efforts. Under E.O. 13563, FDA is reviewing this framework for retrospective review of regulations and, through this notice, is soliciting comments on ways to make this program more effective.

## I. Background

FDA is responsible for protecting the public health by: (1) Ensuring the safety and efficacy of human and veterinary drugs, biological products, and medical devices; (2) ensuring the safety and security of our nation's food supply, products that emit radiation, cosmetics; and (3) regulating the manufacture, marketing, and distribution of tobacco products. FDA also promotes the public health by striving to foster innovative approaches and solutions for some of our nation's most compelling health and medical challenges.

Currently, FDA has three main mechanisms that trigger a retrospective review of an existing regulation. First, a retrospective review may occur when there is a significant change in circumstances, such as advances in technology, new data or other information, or legislative change. Second, whenever FDA is revising an existing regulation, it reviews that regulation to determine if the underlying science and policy are still valid and whether the regulations should be updated based on current science, policy, data, or technology. The third mechanism is FDA's Citizen Petition process. Under 21 CFR 10.30, FDA provides a mechanism for the public to request the Commissioner of Food and Drugs to issue, amend, or revoke a regulation by submitting a Citizen Petition.

Other ongoing mechanisms that FDA uses to target specific audiences are biannual letters to State and Local government officials and small business entities, which are also posted on FDA's Web site. These letters highlight upcoming regulations that FDA believes may have an impact on these two groups. In addition, FDA uses the Federal Government's biannual Unified Agenda of Federal Regulations (Unified Agenda) to announce reviews conducted under section 610(c) of the Regulatory Flexibility Act (RFA). In section 610(c), Federal Agencies are required within 10 years of the effective date of regulations that have a significant economic impact on a substantial number of small entities to review the regulation and seek public input on the continued need for the regulation or on possible changes to the regulation.

Since the 1980s, FDA has participated in a variety of reviews to streamline and improve its regulatory processes. For example, as previously mentioned, section 610(c) of the RFA requires Agencies to review their regulations to determine whether the rules should be continued without change, amended, or rescinded to minimize any significant economic impact on a substantial number of small entities. These reviews are announced in the Unified Agenda.

In the 1990s, FDA participated in the "Reinventing Government" initiative and met 95 percent of its goal for eliminating outdated or unnecessary regulations, and 89 percent of its goal for revising regulations. Following that initiative, FDA has undertaken other reviews of its regulations and regulatory processes including implementing new efficiencies such as withdrawing outdated proposed rules that were never finalized. The most recent withdrawal was in 2008 (73 FR 75625, December 12, 2008). We currently conduct this review of pending proposed rules about every 5 years.

Over the past 15 years, there have also been major legislative changes that have significantly reformed major program areas within FDA and added to the Agency's responsibilities. When FDA develops implementing regulations for these legislative mandates, FDA also takes the opportunity to modify or revoke related regulations as appropriate, and streamline various regulatory processes.

The Food and Drug Administration Modernization Act of 1997 and, 10 years later, the Food and Drug Administration Amendments Act of 2007 (FDAAA) both modernized certain FDA programs and created new ones, mandating numerous regulations to implement those programs. FDAAA also expanded FDA's user fee authority and charged FDA with encouraging more research and development for treatments specifically for children. In 2009, FDA saw a significant increase in its authorities with enactment of the Family Smoking Prevention and Tobacco Control Act of 2009. Finally, earlier this year, the FDA Food Safety Modernization Act was signed into law by President Obama and, when fully implemented, will enable FDA to better protect public health by helping to ensure the safety and security of the food supply.

## II. Request for Comments

FDA is first seeking comment on how the Agency could revise its existing review framework to meet the objectives of E.O. 13563 regarding the development of a plan with a defined method and schedule for identifying certain significant rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive. Comments should address how best to evaluate and analyze regulations to expand on those that work and to modify, improve, or rescind those that do not. To be useful, comments should address how FDA can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations and whether there are existing sources of data that FDA can use to evaluate the post-promulgation effects of regulations over time. FDA is particularly interested in how well its current processes for reviewing regulations function and how those processes might be expanded or otherwise adapted to meet the objectives of E.O. 13563. FDA is further interested in comments about factors that it should consider in selecting rules for review and prioritizing review.

Due to limited resources, FDA generally focuses its retrospective review efforts on: (1) Regulations that have a significant public health impact, (2) regulations that impose a significant burden on the Agency and/or industry, and (3) regulations that impose no significant burden on the Agency and/or industry. FDA welcomes comments

on other criteria it should be using when prioritizing its reviews of existing significant regulations.

In addition, FDA is seeking public comment on which, if any, regulations should be reviewed at this time. Please identify any regulation that should be modified, expanded, streamlined, or repealed to make our regulatory program more effective and less burdensome. Please be as specific as possible in your comments. To support its efforts to support innovation, FDA is particularly interested in comments that identify regulations that may be impediments to innovation and suggestions for how they can be improved.

Comments should focus on regulations that have demonstrated deficiencies. Comments that reiterate previously submitted arguments relating to recently issued rules will be less useful. Furthermore, the public should focus on rule changes that will achieve a broad public impact, rather than an individual personal or corporate benefit. Comments should reference a specific regulation by the Code of Federal Regulations (CFR) cite, and provide specific information on what needs fixing and why. Lastly, FDA stresses that this review is for published final rules; the public should not use this process to submit comments on proposed rules.

The most useful comments will include which specific regulations need to be changed, strengthened or clarified, or revoked. It will be most helpful to include the specific reasons explaining why the change or revocation is necessary or desired, and to provide specific ways to improve the regulation, particularly any specific language modifications.

The Agency will be able to more efficiently review and consider comments that are submitted in the format shown in table 1 of this document:

TABLE 1—FORMAT FOR SUBMITTING COMMENTS

| Name of regulation | |
|---|---|
| Type of Product or FDA Center Regulating the Product. | |
| Statute or Code of Federal Regulations cite (if known). | |
| Brief Description of Problem | (For example, is it outmoded, ineffective, insufficient, or excessively burdensome? Why?) |
| Available Data on Cost or Economic Impact | (Quantified benefits and cost if possible. Qualitative description, if needed.) |
| Proposed Solution | (Include the fix and procedure to solve it. For example, what would be the best way to modify, streamline, expand, or repeal the regulation?) |

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 2011.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2011–10131 Filed 4–26–11; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 936

**[SATS No. OK–033–FOR; Docket ID: OSM–2011–0001]**

## Oklahoma Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposes revisions to its program by adding size limitations for permanent impoundments; adding slope limitations affecting post-mine contours; adding a subsidence allegation reporting requirement; and adding a requirement for bond calculation at renewal. Oklahoma is proposing these additions to its program at its own initiative.

This document provides the times and locations that the Oklahoma program and proposed amendment to that program are available for public inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., c.d.t., May 27, 2011. If requested, we will hold a public hearing on the amendment on May 23, 2011. We will accept requests to speak at a hearing until 4 p.m., c.d.t. on May 12, 2011.

**ADDRESSES:** You may submit comments, identified by SATS No. OK–033–FOR, by any of the following methods:

- *E-mail: aclayborne@osmre.gov.* Include "SATS No. OK–033–FOR" in the subject line of the message.
- *Mail/Hand Delivery:* Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629.
- *Fax:* (918) 581–6419.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM02011–0001. If you would like to submit comments go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. 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:* For access to the docket to review copies of the Oklahoma regulations, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday,

excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office; or you can view the full text of the program amendment available for you to read at *http://www.regulations.gov.*

Alfred L. Clayborne, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629, Telephone: (918) 581–6430, E-mail: *aclayborne@osmre.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following location: Oklahoma Department of Mines, 2915 N. Classen Blvd., Suite 213, Oklahoma City, Oklahoma 73106–5406, Telephone: (405) 427–3859.

**FOR FURTHER INFORMATION CONTACT:** Alfred L. Clayborne, Director, Tulsa Field Office. Telephone: (918) 581–6430. E-mail: *aclayborne@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**

I. Background on the Oklahoma Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

## I. Background on the Oklahoma 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, "* * * 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 conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning the Oklahoma program and program amendments at 30 CFR 936.10, 936.15, and 936.16.

## II. Description of the Proposed Amendment

By letter dated February 25, 2011, (Administrative Record No. OK–1000), Oklahoma sent us amendments to its Program under SMCRA (30 U.S.C. 1201 *et seq.*) at its own initiative. Below is a summary of the changes proposed by Oklahoma. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

### *A. Oklahoma Administrative Code 460:20–43–14(b)(7) Size Limitations on Permanent Impoundments*

Oklahoma's regulations require both temporary and permanent impoundments to adhere to minimum criteria and design certification. Their proposed addition requires a permanent impoundment to have three (3) acres of drainage per acre-foot of storage in the impoundment or a water balance (precipitation runoff versus lake evaporation) showing that the length of time for the impoundment to fill and maintain a stable water level does not exceed a maximum of five (5) years. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

### *B. Oklahoma Administrative Code 460:20–43–38(1) Approximate Original Contour*

Oklahoma's regulations give general backfilling and grading requirements to achieve approximate original contour. Their proposed addition will add specific requirements relating to post mining slopes. Previously mined areas or areas deemed suitable for reforestation could be exempt from these standards if justified in writing by the applicant based on site conditions. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

### *C. Oklahoma Administrative Code 460:20–43–47(c)(3) & 460:20–45–47(c)(6) Subsidence Reporting*

Oklahoma's regulations require the operator to comply with all provisions of the approved subsidence control plan. Their proposed addition would require the operator to report to the Department all instances of alleged subsidence within 30 calendar days. The report must be in writing. The report must identify the location of the alleged subsidence in relation to the underground mine workings. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

### *D. Oklahoma Administrative Code 460:20–17–4(b)(2)(C) Requirement for Bond Calculation at Renewal*

Oklahoma's regulations have minimum requirements for permit renewal. Their proposed addition would require a current bond calculation (less than 60 days old) detailing the costs to reclaim the permit by a third party under the approved worst case bond scenario and evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the Department pursuant to Subchapter 37 of this Chapter. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *http://www.regulations.gov.*

## III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether Oklahoma's proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of Oklahoma's State 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 State 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 (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 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.

*Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on May 12, 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 a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the 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 only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; 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 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 4, 2011.

**Ervin J. Barchenger,**

*Regional Director, Mid-Continent Region.*

[FR Doc. 2011–10142 Filed 4–26–11; 8:45 am]

**BILLING CODE 4310–05–P**

---

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2011–0228]**

**RIN 1625–AA00**

## Safety Zone, Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a permanent safety zone from Brandon Road Lock and Dam to Lake Michigan. This proposed safety zone will cover 77 miles of navigable waterways in the Chicago area and is intended to restrict vessels from entering certain segments of the navigable waters of the Des Plaines River, the Chicago Sanitary and Ship Canal (CSSC), branches of the Chicago River, and the Calumet-Saganashkee Channel (Cal-Sag Channel). This proposed safety zone is necessary to protect the waters, waterway users and vessels from hazards associated with a myriad of actions designed to control the spread of aquatic nuisance species. Because the Asian Carp Regional Coordinating Committee (ACRCC) may take such actions at any time and in any segment of the waterways covered by this proposed safety zone, this proposed safety zone would provide the Captain of the Port, Sector Lake Michigan, the ability to take targeted and expeditious action to protect vessels and persons from the hazards associated with any Federal and State efforts to control aquatic nuisance species.

**DATES:** Comments and related materials must be received by the Coast Guard on or before May 27, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–0228 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call LCDR William Nabach, Asst. Chief, Prevention Department, Sector Lake Michigan, telephone 414–747–7159, e-mail address *William.A.Nabach@uscg.mil.* If you have questions related to the application of piscicide, please contact Mr. Bill Bolen, U.S. Environmental Protection Agency, Senior Advisor, Great Lakes National Program Office, 77 W. Jackson Blvd., Chicago, IL 60604, at (312) 353–6316. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0228), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://*

*www.regulations.gov*) or by fax, mail or hand delivery but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, mail, or hand deliver your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and mailing address, e-mail address or telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2011–0228" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

**Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0228" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

**Privacy Act**

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

In 2007, the Department of the Interior through the Fish and Wildlife Service listed the Asian Carp and the Silver Carp as Injurious Wildlife Species. Based upon testing conducted by the United States Army Corps of Engineers (USACE), the Asian carp are believed to be migrating toward the Great Lakes through the Chicago Sanitary and Ship Canal and connected tributaries. Scientists are concerned that if these aquatic nuisance species reach the Great Lakes in sufficient numbers that they might devastate the Great Lakes commercial and sport fishing industries.

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended by the National Invasive Species Act of 1996, authorized the USACE to conduct a demonstration project to identify an environmentally sound method for preventing and reducing the dispersal of non-indigenous aquatic nuisance species through the Chicago Sanitary and Ship Canal.

Subsequently, the USACE put in place an electric barrier to prevent and reduce the dispersal of Asian carp in the Chicago Sanitary and Ship Canal. Specifically, a demonstration dispersal barrier (Barrier I) was constructed and has been in operation since April 2002. It is located approximately 30 miles from Lake Michigan and creates an electric field in the water by pulsing low voltage DC current through steel cables secured to the bottom of the canal. A second barrier (Barrier IIA) was constructed 800 to 1300 feet downstream of Barrier I. Barrier IIA is currently operating at two volts per inch, 15 Hertz, and 6.5 ms. Construction on Barrier IIB was completed in early 2011. Operational and safety testing was conducted on Barrier IIB in February 2011 and is being analyzed. The completion of Barrier IIB should allow for maintenance operations with reduced need for the use of other aquatic nuisance species countermeasures.

In addition to the aforementioned electric dispersal barriers, the ACRCC has been conducting fish sampling in the Chicago Area Waterway System. The purpose of this sampling is to detect the potential presence of Asian Carp and other aquatic nuisance species within the waters covered by this proposed safety zone. Upon detection of the presence of Asian Carp or other aquatic nuisance species within any segment of the waterways covered by this safety zone, the ACRCC will take action designed to control the spread of aquatic nuisance species within the area of detection. The various types of actions that the ACRCC might take are outlined in the Asian Carp Control Strategy Framework, which can be found on the ACRCC's Web site: *http://asiancarp.org.*

Because of the ACRCC's testing and countermeasure activity, the Captain of the Port, Sector Lake Michigan, put in place a Temporary Interim Rule (TIR) on May 1, 2010. This TIR established a 77 mile long safety zone from Brandon Road Lock to Lake Michigan in Chicago, IL. The purpose of that safety zone was to provide the Captain of the Port, Sector Lake Michigan, with the ability to take targeted and expeditious action to protect vessels and persons from the hazards associated with the aquatic nuisance testing and the countermeasure activities detailed in the ACRCC's Asian Carp Control Strategy Framework. Although that TIR expired on March 1, 2011, the ACRCC will continue their testing and countermeasure activities. Thus, the Captain of the Port, Sector Lake Michigan, still finds it necessary to have the ability to take targeted and expeditious actions in the affected waterways to protect vessels and persons from the ACRCC's expected actions. For this reason, the Captain of the Port, Sector Lake Michigan, proposes to establish a permanent safety zone along the same waterways covered in the previously published TIR. Like the safety zone established in the TIR, this proposed safety zone will only be enforced when testing and countermeasure activity require the Captain of the Port, Sector Lake Michigan to enforce the safety zone.

**Discussion of Rule**

This proposed rule places a permanent safety zone on 77 miles of waterways from Brandon Road Lock and Dam (mile marker 286.0) to Lake Michigan, including the waterways of the Des Plaines River, the CSSC, branches of the Chicago River, and the Calumet-Saganashkee Channel (Cal-Sag Channel). The Coast Guard has deemed this safety zone necessary to protect the

waters, waterway users, and vessels from the hazards associated with a myriad of actions designed to control the spread of aquatic nuisance species. Because it is difficult to predict with certainty the type and degree of aquatic nuisance countermeasures that might be in place along the affected waterways several years from now, the Coast Guard proposes to establish a permanent safety zone in place of the previous temporary safety zone that expired on March 1, 2011. This proposed rule is separate and distinct from that located in 33 CFR 165.T09–1054, which was published in the December 2, 2010 issue of the **Federal Register** (75 FR 759) to establish a safety zone and regulated navigation area (RNA) on the CSSC near Romeo Road Bridge, Romeoville, IL. Likewise, this proposed rule affects no other regulation currently applicable to the waterways covered by this safety zone.

The Captain of the Port, Sector Lake Michigan, may enforce this safety zone in whole or in segments. Although the safety zone may be enforced in its entirety, it is the intention of the Captain of the Port, Sector Lake Michigan to enforce the safety zone, depending on the circumstances, in the smallest segments possible. By enforcing only small segments of the safety zone, the Captain of the Port, Sector Lake Michigan, retains the flexibility to focus enforcement efforts only on those portions of the safety zone actually affected by aquatic nuisance species countermeasures. It is expected that this enforcement scheme will minimize waterway closures and any corresponding effects on vessel traffic. Any segment of this proposed safety zone to be enforced shall be delineated by mile markers and/or landmarks (*e.g.,* Romeo Road Bridge).

Vessels may transit through any portion of the safety zone that is not being enforced. Entry into, transiting, mooring, laying up, or anchoring within an enforced segment of the safety zone, however, is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. All vessels desiring to enter a segment of a waterway in which this safety zone is being enforced must obtain permission from the Captain of the Port, Sector Lake Michigan, to do so and must follow all orders from the Captain of the Port, Sector Lake Michigan, or his or her designated representative while in the zone.

Even during periods of enforcement, the Captain of the Port, Sector Lake Michigan, will make every effort to permit vessel entry into any enforced segment of the safety zone until on-scene preparations begin for aquatic nuisance species countermeasures. Once on-scene preparations begin and until clean-up is complete, however, no vessel, except those being used for aquatic nuisance species countermeasures or those having specific permission from the Captain of the Port, Sector Lake Michigan, will be permitted to enter or remain in an enforced segment of the safety zone.

As the necessary clean-up actions are completed, the Captain of the Port, Sector Lake Michigan, will begin to re-open segments of the waterways in an effort to minimize disruption or waterway use. As soon as the aquatic nuisance species countermeasures are complete, the safety zone will no longer be enforced and the Captain of the Port, Sector Lake Michigan, will notify the public of such by all appropriate means. Such means of notification include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

The Captain of the Port, Sector Lake Michigan, maintains a live radio watch on VHF Channel 16 and a telephone line that is manned 24-hours a day, seven days a week. The public can obtain information concerning enforcement of the safety zone by contacting the Captain of the Port, Sector Lake Michigan, via the Coast Guard Sector Lake Michigan Command Center at 414–747–7182.

## Regulatory Analyses

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

## Regulatory Planning and Review

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

We expect the economic impact of this proposed rule to be minimal. This determination is based on the following: (1) While this rule proposes to establish a safety zone that is 77 miles long, the Captain of the Port, Sector Lake Michigan, will enforce the safety zone only in relatively small segments. The Captain of the Port, Sector Lake Michigan, will have the flexibility to enforce the safety zone in only the segments of the safety zone affected by the application of piscicide, targeted fishing operations or other countermeasures to address the problem of aquatic nuisance species invasion; and (2) The Captain of the Port, Sector Lake Michigan, will make every effort to reduce the closure time of the enforced segments of the safety zone.

## Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in any enforced segment of the 77-mile safety zone. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR William Nabach, Asst. Chief of Prevention, Sector Lake Michigan, at (414) 747–7159. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

## Collection of Information

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

**Federalism**

A proposed 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 proposed rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

**Energy Effects**

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

**Technical Standards**

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

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

**Environment**

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of the category of actions which do not individually or cumulatively have significant effect on the human environment. Therefore, this proposed rule is categorically excluded, under section 2.B.2 Figure 2–1, paragraph (34)(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This proposed rule involves the establishing, disestablishing, or changing of a security or safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. The Coast Guard's environmental responsibilities extend only to the creation of a safety zone and do not include the application of piscicide or any other countermeasures to combat invasive species.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add § 165.930 to read as follows:

**§ 165.930 Safety Zone, Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL.**

(a) *Location.* The safety zone consists of the following areas:

(1) *Des Plaines River.* All U.S. waters of the Des Plaines River located between mile marker 286.0 (Brandon Road Lock and Dam) and mile marker 290.0 (point at which the Des Plaines River connects with the Chicago Sanitary and Ship Canal).

(2) *Chicago Sanitary and Ship Canal.* All U.S. waters of the Chicago Sanitary and Ship Canal between mile marker 290.0 (point at which the Chicago Sanitary and Ship Canal connects to the Des Plaines River) and mile marker 321.8 (point at which the Chicago Sanitary and Ship Canal Connects to the South Branch Chicago River).

(3) *South Branch Chicago River.* All U.S. waters of the South Branch Chicago River between mile marker 321.8 (point at which the South Branch Chicago River connects to the Chicago Sanitary and Ship Canal) and mile marker 325.6 (point at which the South Branch Chicago River connects to the Chicago River (Main Branch) and North Branch Chicago River).

(4) *Chicago River (Main Branch).* All U.S. waters of the Chicago River (Main Branch) between mile marker 325.6 (point at which the Chicago River connects to the South Branch Chicago River) and 100 yards extending past the end of the Chicago River covering the area of the Federal channel within Chicago Harbor.

(5) *North Branch Chicago River.* All U.S. waters of the North Branch Chicago River between mile marker 325.6 (point at which the North Branch Chicago River connects to the Chicago River (Main Branch) and the South Branch Chicago River) and mile marker 331.4 (end of navigation channel).

(6) *Calumet-Saganashkee Channel.* All U.S. waters of the Calumet-Saganashkee Channel between mile marker 303.5 (point at which the Calumet-Saganashkee Channel connects to the Chicago Sanitary and Ship Canal) and mile marker 333.0; all U.S. waters of the Calumet-Saganashkee Channel between mile marker 333.0 and Lake Michigan (Calumet Harbor).

(b) *Effective Period.* This rule is effective [30 DAYS AFTER THE PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**].

(c) *Enforcement.* (1) The Captain of the Port, Sector Lake Michigan, may enforce this safety zone in whole, in segments, or by any combination of segments. The Captain of the Port, Sector Lake Michigan, may suspend the enforcement of any segment of this safety zone for which notice of enforcement had been given.

(2) The safety zone established by this section will be enforced, pursuant to paragraph (c)(1) of this section, only upon notice by the Captain of the Port, Sector Lake Michigan. Suspension of any previously announced period of enforcement will also be provided by the Captain of the Port, Sector Lake Michigan. All notices of enforcement and notices of suspension of enforcement will clearly describe any segments of the safety zone affected by the notice. At a minimum, notices of enforcement and notices of suspension of enforcement will identify any affected segments by reference to mile markers. When possible, the Captain of the Port, Sector Lake Michigan, will also identify enforced segments of this safety zone by referencing readily identifiable geographical points. In addition to providing the geographical bounds of any enforced segment of this safety zone, notices of enforcement will also provide the date(s) and time(s) at which enforcement will commence or suspend.

(3) The Captain of the Port, Sector Lake Michigan, will publish notices of enforcement and notices of suspension of enforcement in accordance with 33 CFR 165.7(a) and in a manner that provides as much notice to the public as possible. The primary method of notification will be through publication in the **Federal Register**. The Captain of the Port, Sector Lake Michigan, will also provide notice through other means, such as Broadcast Notice to Mariners, local Notice to Mariners, local news media, distribution in leaflet form, and on-scene oral notice. Additionally, the Captain of the Port, Sector Lake Michigan, may notify representatives from the maritime industry through telephonic and e-mail notifications.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, mooring, laying up, or anchoring within any enforced segment of the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(2) The "designated representative" of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The designated representative of the Captain of the Port, Sector Lake Michigan, will be aboard a Coast Guard, Coast Guard Auxiliary, or other designated vessel or will be on shore and will communicate with vessels via VHF radio, loudhailer, or by phone. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF radio Channel 16 or the Coast Guard Sector Lake Michigan Command Center at 414–747–7182.

(3) To obtain permission to enter or operate within an enforced segment of the safety zone established by this section, Vessel operators must contact the Captain of the Port, Sector Lake Michigan, or his or her designated representative. Vessel operators given permission to operate in an enforced segment of the safety zone must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her designated representative.

(4) When a segment of the safety zone is being enforced, it will be closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. As soon as operations permit, the Captain of the Port, Sector Lake Michigan, will issue a notice of suspension of enforcement as specified in paragraph (c) of this section.

(5) All persons entering any enforced segment of the safety zone established in this section are advised that they do so at their own risk.

Dated: April 15, 2011.

**L. Barndt,**

*Captain, U.S. Coast Guard, Captain of the Port, U.S. Coast Guard Sector Lake Michigan.*

[FR Doc. 2011–10194 Filed 4–26–11; 8:45 am]

**BILLING CODE 9110–04–P**

---

## DEPARTMENT OF HOMELAND SECURITY

## Federal Emergency Management Agency

## 44 CFR Part 67

**[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1184]**

## Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Proposed rule.

**SUMMARY:** Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

**DATES:** Comments are to be submitted on or before July 26, 2011.

**ADDRESSES:** The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1184, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering

Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

*National Environmental Policy Act.* This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

*Executive Order 12866, Regulatory Planning and Review.* This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

1. The authority citation for part 67 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.

**§ 67.4 [Amended]**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| **Polk County, Florida, and Incorporated Areas** | | | | |
| Lake B—ICPR Node Lake B | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| Lake Marion Creek | Approximately 1 mile upstream of the Lake Hatchineha confluence. | +56 | +57 | Unincorporated Areas of Polk County. |
| | At the Lake Marion Creek Outlet and Snell Creek confluence. | None | +67 | |
| Lake Marion Creek Outlet | At the Lake Marion Creek and Snell Creek confluence | None | +67 | Unincorporated Areas of Polk County. |
| | At the Lake Marion confluence | None | +68 | |
| Lake Polk—ICPR Node Lake Polk. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A1. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A10. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A11. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A12. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A13. | Entire shoreline | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A2. | Entire shoreline | None | +68 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A20. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| London Creek Watershed Unnamed Pond—ICPR Node 28A21. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A22. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A3. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A5. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A6. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A7. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A8. | Entire shoreline | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28A9. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B1. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B11. | Entire shoreline | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B12. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B15. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B16. | Entire shoreline | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B5. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28B6. | Entire shoreline | None | +70 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28C11. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28C12. | Entire shoreline | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28C20. | Entire shoreline | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28C8. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28C9. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D1. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D10. | Entire shoreline | None | +64 | Unincorporated Areas of Polk County. |

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| London Creek Watershed Unnamed Pond—ICPR Node 28D11. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D2. | Entire shoreline | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D3. | Entire shoreline | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D4. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D5. | Entire shoreline | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D6. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D7. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D8. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Pond—ICPR Node 28D9. | Entire shoreline | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W1. | Entire wetland area | None | +68 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W10. | Entire wetland area | None | +68 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W12. | Entire wetland area | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W13. | Entire wetland area | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W28. | Entire wetland area | None | +67 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W35. | Entire wetland area | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W36. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W39. | Entire wetland area | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W43. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W43A. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W43B. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W43C. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W45. | Entire wetland area | None | +65 | Unincorporated Areas of Polk County. |

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W61. | Entire wetland area | None | +63 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W64. | Entire wetland area | None | +66 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W65. | Entire wetland area | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W72. | Entire wetland area | None | +65 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W74. | Entire wetland area | None | +64 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W9. | Entire wetland area | None | +68 | Unincorporated Areas of Polk County. |
| London Creek Watershed Unnamed Wetland Area—ICPR Node 28W91. | Entire wetland area | None | +66 | Unincorporated Areas of Polk County. |
| Snell Creek | At the Lake Marion Creek and Lake Marion Creek Outlet confluence. | None | +67 | Unincorporated Areas of Polk County. |
| | Approximately 1.5 miles upstream of Cypress Parkway. | None | +72 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**Unincorporated Areas of Polk County**

Maps are available for inspection at 330 West Church Street, Bartow, FL 33830.

**East Baton Rouge Parish, Louisiana, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| North Branch Wards Creek | Approximately 0.46 mile upstream of I–10 North | +29 | +30 | City of Baton Rouge, Unincorporated Areas of East Baton Rouge Parish. |
| | Approximately 1,600 feet upstream of Albert Drive | None | +52 | |
| Redwood Creek | Approximately 900 feet downstream of Plank Road | None | +92 | City of Zachary, Unincorporated Areas of East Baton Rouge Parish. |
| | Approximately 500 feet upstream of Port-Hudson Pride Road. | None | +101 | |
| Sheet flow between McCarroll Drive and North Jefferson Place Circle. | At North Jefferson Place Circle | None | #1 | City of Baton Rouge, Unincorporated Areas of East Baton Rouge Parish. |
| | At the intersection of Richards Drive and McCarroll Drive. | None | #1 | |
| Shoe Creek | Approximately 0.58 mile downstream of Hooper Road | None | +59 | City of Central. |
| | Approximately 600 feet upstream of Gurney Road | None | +67 | |
| Shoe Creek Tributary 1 | Approximately 1,200 feet downstream of Hooper Road. | None | +60 | City of Central. |
| | At the downstream side of Hooper Road | None | +60 | |
| Shoe Creek Tributary 1A | At the Shoe Creek Tributary 1 confluence | None | +60 | City of Central. |
| | Approximately 1,500 feet upstream of the Shoe Creek Tributary 1 confluence. | None | +60 | |

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Upper White Bayou | Approximately 0.66 mile downstream of Zachary-Slaughter Highway. | +93 | +94 | City of Zachary, Unincorporated Areas of East Baton Rouge Parish. |
| | Approximately 450 feet downstream of Brian Road | +110 | +111 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Baton Rouge**
Maps are available for inspection at the Department of Public Works Flood Office, 100 Saint Ferdinand Street, Baton Rouge, LA 70802.

**City of Central**
Maps are available for inspection at the Central Municipal Service Center, 22801 Greenwell Springs Road, Suite 3, Greenwell Springs, LA 70739.

**City of Zachary**
Maps are available for inspection at the Annex Building, 4650 Main Street, Zachary, LA 70791.

**Unincorporated Areas of East Baton Rouge Parish**
Maps are available for inspection at the City of Baton Rouge Department of Public Works Flood Office, 100 Saint Ferdinand Street, Baton Rouge, LA 70802.

**Nobles County, Minnesota, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| County Ditch No. 12 | Approximately 0.48 mile downstream of U.S. Route 59. | None | +1563 | City of Worthington. |
| | Approximately 570 feet downstream of U.S. Route 59 | None | +1566 | |
| County Ditch No. 6 | Approximately 1,260 feet downstream of U.S. Route 59/State Highway 60. | None | +1570 | City of Worthington, Unincorporated Areas of Nobles County. |
| | Approximately 75 feet downstream of U.S. Route 59/State Highway 60. | None | +1570 | |
| Tributary to Kanaranzi Creek | Approximately 520 feet upstream of the Kanaranzi Creek confluence. | None | +1520 | City of Adrian, Unincorporated Areas of Nobles County. |
| | Approximately 1,350 feet downstream of 6th Street East. | None | +1540 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Adrian**
Maps are available for inspection at City Hall, 209 Maine Avenue, Adrian, MN 56110.

**City of Worthington**
Maps are available for inspection at City Hall, 303 9th Street, Worthington, MN 56187.

**Unincorporated Areas of Nobles County**
Maps are available for inspection at the Nobles County Government Center, 315 10th Street, Worthington, MN 56187.

**Tallahatchie County, Mississippi, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Hunter Creek | Approximately 1,170 feet downstream of State Route 32. | None | +187 | City of Charleston. |
| | Approximately 66 feet upstream of State Route 32 | None | +187 | |
| North Fork Tillatoba Creek | Approximately 995 feet downstream of State Route 35. | None | +180 | City of Charleston. |

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |
| Tillatoba Creek | Approximately 1,170 feet upstream of State Route 35 | None | +181 | City of Charleston. |
| | Approximately 1,465 feet downstream of State Route 32. | None | +181 | |
| | Approximately 1.1 miles upstream of State Route 32 | None | +186 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Charleston**

Maps are available for inspection at the Mayor's Office, 26 South Square Street, Charleston, MS 38921.

**Ray County, Missouri, and Incorporated Areas**

| | | | | |
|---|---|---|---|---|
| Missouri River | Approximately 0.8 mile downstream of the Brady Creek confluence. | +706 | +704 | City of Fleming. |
| | Approximately 3.5 miles downstream of the Keeney Creek confluence. | +711 | +709 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Fleming**

Maps are available for inspection at the Ray County Courthouse, 100 West Main Street, Richmond, MO 64085.

**Schenectady County, New York (All Jurisdictions)**

| | | | | |
|---|---|---|---|---|
| Lisha Kill | Approximately 1,825 feet downstream of New York Route 7 (Troy-Schenectady Road). | None | +238 | Town of Niskayuna. |
| | At the Albany County boundary | None | +269 | |
| Mohawk River | At Canadian Pacific Railway Bridge | +226 | +225 | City of Schenectady, Town of Glenville, Town of Rotterdam, Village of Scotia. |
| | Approximately 1.08 miles downstream of Lock 8 | +232 | +231 | |
| Normans Kill | Approximately 1.15 miles downstream of Giffords Church Road. | None | +276 | Town of Princetown. |
| | Approximately 1.16 miles upstream of Giffords Church Road. | None | +292 | |
| Poentic Kill | At the Mohawk River confluence | None | +231 | City of Schenectady, Town of Rotterdam. |
| | Approximately 0.93 mile upstream of Campbell Road | None | +306 | |
| Schoharie Creek | Approximately 3.23 miles downstream of U.S. Route 20. | +531 | +541 | Town of Duanesburg. |
| | Approximately 3.13 miles upstream of U.S. Route 20 | +584 | +590 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

| Flooding source(s) | Location of referenced elevation ** | * Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) | | Communities affected |
|---|---|---|---|---|
| | | Effective | Modified | |

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

**ADDRESSES**

**City of Schenectady**
Maps are available for inspection at City Hall, 105 Jay Street, Schenectady, NY 12305.

**Town of Duanesburg**
Maps are available for inspection at the Town Hall, 5853 Western Turnpike, Duanesburg, NY 12056.

**Town of Glenville**
Maps are available for inspection at the Municipal Center, 18 Glenridge Road, Glenville, NY 12302.

**Town of Niskayuna**
Maps are available for inspection at the Town Hall, 1 Niskayuna Circle, Niskayuna, NY 12309.

**Town of Princetown**
Maps are available for inspection at the Princetown Town Hall, 165 Princetown Plaza, Schenectady, NY 12306.

**Town of Rotterdam**
Maps are available for inspection at the John F. Kirvin Government Center, 1100 Sunrise Boulevard, Rotterdam, NY 12306.

**Village of Scotia**
Maps are available for inspection at the Village Hall, 4 North Ten Broeck Street, Scotia, NY 12302.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 11, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2011–10097 Filed 4–26–11; 8:45 am]

BILLING CODE 9110–12–P

# Notices

Federal Register

Vol. 76, No. 81

Wednesday, April 27, 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

### Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

April 22, 2011.

**AGENCY:** Department of Agriculture (USDA).

**ACTION:** 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

**SUMMARY:** As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the Department of Agriculture (USDA) has submitted a Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

**DATES:** Comments must be submitted May 27, 2011.

**ADDRESSES:** Written comments may be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

**FOR FURTHER INFORMATION CONTACT:** To request additional information, please contact Ruth Brown (202) 720–8958 or Charlene Parker (202) 720–8681.

**SUPPLEMENTARY INFORMATION:**

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** of December 22, 2010 (75 FR 80542).

**Total Burden Estimate for the Department of Agriculture**

*Current Actions:* New collection of information.
*Type of Review:* New Collection.
*Affected Public:* Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.
*Average Expected Annual Number of Activities:* 52.
*Respondents:* 3,665,300.
*Annual Responses:* 3,665,300.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 35.
*Burden Hours:* 992,250.

**Agriculture Departmental Offices—0503–xxxx**

*Average Expected Annual Number of Activities:* 30.
*Respondents:* 30,000.
*Annual Responses:* 30,000.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 60.
*Burden Hours:* 30,000.

**Agricultural Marketing Service—0581–xxxx**

*Average Expected Annual Number of Activities:* 8.
*Respondents:* 110,000.
*Annual Responses:* 110,000.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 30.
*Burden Hours:* 60,000.

**Animal and Plant Health Inspection Service—0579–xxxx**

*Average Expected Annual Number of Activities:* 2.
*Respondents:* 1,000.
*Annual Responses:* 1,000.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 15.
*Burden Hours:* 250.

**Food Safety and Inspection Service—0583–xxxx**

*Average Expected Annual Number of Activities:* 6.
*Respondents:* 27,000.
*Annual Responses:* 27,000.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 60.
*Burden Hours:* 27,000.

**Forest Service—0596–xxxx**

*Average Expected Annual Number of Activities:* 6.

*Respondents:* 3,500,000.
*Annual Responses:* 3,500,000.
*Frequency of Response:* Once per request.
*Average Minutes per Response:* 15.
*Burden Hours:* 875,000.

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 Office of Management and Budget control number.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2011–10237 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–96–P

## DEPARTMENT OF AGRICULTURE

### Resource Advisory Committee Meeting

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Public Meeting, Sabine National Forest Resource Advisory Committee.

**SUMMARY:** In accordance with the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393), [as reauthorized as part of Pub. L. 110–343] and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of Agriculture, Forest Service, Sabine National Forest Resource Advisory Committee (RAC) meeting will meet as indicated below.

**DATES:** The Sabine National Forest RAC meeting will be held on Thursday, May 5, 2011.

**ADDRESSES:** The Sabine National Forest RAC meeting will be held at the Sabine Ranger Station located on State Highway 21 East, approximately 5 miles East of Milam in Sabine County, Texas. The meeting will begin at 3:30 p.m. and adjourn at approximately 5:30 p.m. A public comment period will begin at 5:15 p.m.

**FOR FURTHER INFORMATION CONTACT:** William E. Taylor, Jr., Designated Federal Officer, Sabine National Forest, 5050 State Hwy. 21 E., Hemphill, TX 75948: *Telephone:* 409–625–1940 or e-mail at: *etaylor@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The Sabine National Forest RAC proposes projects and funding to the Secretary of Agriculture under Section 203 of the Secure Rural Schools and Community Self Determination Act of 2000, (as reauthorized as part of Pub. L. 110–343). The purpose of the May 5, 2011 meeting is to discuss new Title II projects. These meetings are open to the public. The public may present written comments to the RAC. Each formal RAC meeting will also have time, as identified above, for persons wishing to comment. The time for individual oral comments may be limited.

**William E. Taylor, Jr.,**

*Designated Federal Officer, Sabine National Forest RAC.*

[FR Doc. 2011–9962 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Document Number AMS–FV–10–0063]**

### Hass Avocado Promotion, Research, and Information Order; Importer Associations and Assessment Computation

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

**ACTION:** Notice.

This notice announces an updated computation for assessments received by importer associations under the Hass Avocado Promotion, Research, and Information Order (Order)(7 CFR part 1219). The Order is authorized under the Hass Avocado Promotion, Research, and Information Act of 2000 (7 U.S.C. 7801–7813). The Order covers fresh domestic and imported Hass avocados and is administered by the Hass Avocado Board (Board). Under the program, assessments are paid by producers and importers and used for programs designed to increase the consumption of Hass avocados in the United States. A state association receives 85 percent of the assessment paid by all producers in the State of California and uses these funds to conduct state-of-origin promotions. Importer associations receive 85 percent of the assessments paid by their members and use these funds to conduct country-of-origin promotions. This notice announces that assessments from all Hass avocado importers who import Hass avocados from a country represented by an importer association will be included in the 85 percent assessment computation. For those importers of Hass avocados whose assessments were not previously included in the 85 percent calculation, such importers may have their assessments not included in the computation upon notice to the Board. Information regarding the updated computation is available from the Agricultural Marketing Service at *http://www.ams.usda.gov/FVPromotion.* The updated computation will become effective 60 days after the date of publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Veronica Douglass, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Room 0632–S, Stop 0244, Washington, DC 20250–0244; telephone: (888) 720–9917; facsimile (202) 205–2800; or electronic mail: *Veronica.Douglass@ams.usda.gov.*

Dated: April 20, 2011.

**Ellen King,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–10120 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Document Number AMS–NOP–11–0014; NOP–11–05]**

### Notice of Meeting of the National Organic Standards Board

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

**ACTION:** Notice correction.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) announced on March 4, 2011 a forthcoming meeting of the National Organic Standards Board (NOSB) (76 FR 12013). The March 4, 2011 notice provided for five-minute public comment slots. Due to the overwhelming number of people who have signed up to present comments, AMS is informing the public that each public comment slot will be three minutes.

**DATES:** The NOSB meeting dates are Tuesday, April 26, 2011, 8 a.m. to 5:30 p.m.; Wednesday, April 27, 2011, 8 a.m. to 5 p.m.; Thursday, April 28, 2011, 8 a.m. to 5 p.m.; and Friday, April 29, 2011, 8 a.m. to 4:45 p.m.

Dated: April 22, 2011.

**David R. Shipman,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2011–10196 Filed 4–26–11; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### National Agricultural Statistics Service

### Notice of Intent To Reinstate a Previously Approved Information Collection.

**AGENCY:** National Agricultural Statistics Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request a reinstatement, with changes, to a previously approved information collection, the Conservation Effects Assessment Project (CEAP) Survey. Revision to burden hours will be needed due to changes in the size of the target, sampling design, and/or questionnaire length.

**DATES:** Comments on this notice must be received by June 27, 2011 to be assured of consideration.

**ADDRESSES:** You may submit comments, identified by docket number 0535–0245, Conservation Effects Assessment Project (CEAP) Survey, by any of the following methods:

- *E-mail: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *Fax:* (202) 720–6396.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250–2024.

**FOR FURTHER INFORMATION CONTACT:** Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

**SUPPLEMENTARY INFORMATION:**

*Title:* Conservation Effects Assessment Project (CEAP) Survey.

*OMB Control Number:* 0535–0245.

*Type of Request:* To reinstate a previous approval for an information collection for a period of three years.

*Abstract:* The Conservation Effects Assessment Project (CEAP) was initiated by the United States Department of Agriculture (USDA) in 2003 as a multi-agency effort to quantify the environmental effects of conservation practices on agricultural lands. As part of this assessment, the National Agricultural Statistics Service (NASS) conducted on-site interviews with farmers during 2003–2006 to document tillage and irrigation practices, application of fertilizer, manure, and pesticides, and use of conservation practices at sample points drawn from the Natural Resources Inventory (NRI) sampling frame. These data were linked through the NRI frame to the Natural Resources Conservation Service (NRCS) soil survey, climate, and historical survey databases. The combined information was used to model the impact on soil and water resources and to estimate the benefits of conservation practices, including nutrient, sediment, and pesticide losses from farm fields, reductions in in-stream nutrient and sediment concentrations, and impacts on soil quality and erosion.

USDA needs updated scientifically credible data on residue and tillage management, nutrient management, and conservation practices in order to quantify and assess current impacts of farming practices and to document changes since 2006. A pilot survey focused in the Chesapeake Bay Watershed is planned for the end of the 2011 crop year, with enumeration extending into February 2012. This survey will be called the "*NRI Conservation Tillage and Nutrient Management Survey*" (NRI–CTNMS). The survey questionnaire is modeled after the 2003–2006 CEAP surveys and will be administered through personal interviews of farm operators by trained National Association of State Departments of Agriculture (NASDA) enumerators. The pilot study will occur at 1,500 NRI points located in Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia. Data collected will provide conservation tillage estimates and will be used to model impacts of conservation practices on the larger environment. The summarized results of the NRI–CTNMS will be made available in a web-based format to agricultural producers and professionals, government officials, and the general public.

**Authority:** The Natural Resources Conservation Service's (NRCS's) participation in this agreement is authorized under the Soil and Water Resources Conservation Act of 1977, 16 U.S.C. 2001–2009, as amended, Economy Act U.S.C. 1535. NRCS contracted with NASS to collect and compile this data for them. These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501, et seq.) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, "Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)," 72 FR 33362–01, Jun. 15, 2007.

*Estimate of Burden:* Burden will be approximately 10 minutes for a first visit to verify operator of the NRI point, and 70 minutes at a second visit for the interview. (It may be possible to complete both during the same visit).

*Respondents:* Farmers and Ranchers.

*Estimated Number of Respondents:* 1,500.

*Frequency of Responses:* Potentially, 2 times for each respondent.

*Estimated Total Annual Burden:* 1,720 hours (based on an overall response rate of approximately 80%).

| Survey | Sample Size | Freq | Responses | | | | Non-response | | | | Total Burden Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | Resp. Count | Freq x Count | Min./ Resp. | Burden Hours | Nonresp Count | Freq. x Count | Min./ Nonr. | Burden Hours | |
| CEAP - Identification Phase | 1,500 | 1 | 1,200 | 1,200 | 10 | 200 | 300 | 300 | 2 | 10 | 210 |
| CEAP - Survey Phase | 1,200 | 1 | 1,200 | 1,200 | 70 | 1,400 | 0 | 0 | 2 | 0 | 1,400 |
| Pre-Survey Letter and Publicity Materials | 1500 | 1 | 1,200 | 1,200 | 5 | 100 | 300 | 300 | 2 | 10 | 110 |
| | | | | | | | | | | | |
| **Total** | 1,500 | | | | | 1,700 | | | | 20 | 1,720 |

Copies of this information collection and related instructions can be obtained without charge from the NASS Clearance Officer, by calling (202) 720–2248 or by e-mail *ombofficer@nass.usda.gov.*

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, April 7, 2011.

**Joseph T. Reilly,**

*Associate Administrator.*

[FR Doc. 2011–9976 Filed 4–26–11; 8:45 am]

**BILLING CODE 3410–20–P**

## DEPARTMENT OF COMMERCE

### Census Bureau

### Proposed Information Collection; Comment Request; Commodity Flow Survey

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** To ensure consideration, written comments must be submitted on or before June 27, 2011.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cynthia Hollingsworth, Bureau of the Census, Room 8K047, Washington, DC 20233, (301) 763–3655 (or via the Internet at *cynthia.davis.hollingsworth @census.gov*).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Commodity Flow Survey, a component of the Economic Census, is the only comprehensive source of multi-modal, system-wide data on the volume and pattern of goods movement in the United States. These data are used by government analysts and policy makers at the Federal, State and local levels to estimate the future demand for transportation services and facilities; assess the adequacy of our current transportation infrastructure to accommodate the future demand; and to evaluate the economic, social and environmental impacts of transportation flows. The data also are used extensively by academics, researchers, economic planning organizations, and the business community.

The Commodity Flow Survey is co-sponsored by the Bureau of Transportation Statistics, Research and Innovative Technology Administration, Department of Transportation. The survey provides data on the movement of commodities in the United States from their origin to destination. The survey produces summary statistics on value, tons, ton-miles and average miles by commodity, industry, and mode of transportation. The Census Bureau will publish these shipment characteristics for the nation, census regions and divisions, states, and CFS defined geographical areas.

Primary strategies for reducing respondent burden in the Commodity Flow Survey include: Employing a stratified random sample of business establishments, requesting data on a limited sample of shipment records from each establishment, accepting estimates of shipping activity, and providing the opportunity for establishments to report electronically.

### II. Method of Collection

The Commodity Flow Survey will be sent to a sample of business establishments in mining, manufacturing, wholesale, and select retail and services industries. The survey also will cover auxiliary establishments (*i.e.,* warehouses and managing offices) of multi-establishment companies. Each selected establishment will receive four questionnaires, one during each calendar quarter of 2012. On each questionnaire, an establishment will be asked to report data for approximately 20–30 shipments for a predefined reporting week. Respondents may report via paper questionnaire or via secure electronic reporting.

### III. Data

*OMB Control Number:* 0607–0932.

*Form Number:* CFS 1000 (2012), CFS 2000 (2012).

*Type of Review:* Regular submission.

*Affected Public:* Business and other for-profit, small businesses or organizations.

*Estimated Number of Respondents:* 100,000.

*Estimated Time per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 800,000.

*Estimated Total Annual Cost:* $20,800,000.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13 U.S.C. 131.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 21, 2011.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2011–10053 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–07–P**

---

## DEPARTMENT OF COMMERCE

## Census Bureau

## Proposed Information Collection; Comment Request; Annual Survey of Manufactures

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** To ensure consideration, written comments must be submitted on or before June 27, 2011.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Julius Smith, Jr., U.S. Census Bureau, Manufacturing and Construction Division, Room 7K055, 4600 Silver Hill Road, Washington, DC 20233, (301) 763–7662 (or via the Internet at *julius.smith.jr@census.gov*).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The Census Bureau has conducted the Annual Survey of Manufactures (ASM) since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in "2" and "7", we mail and collect the ASM as part of the Economic Census covering the Manufacturing Sector. This survey is an integral part of the Government's statistical program. The ASM furnishes up-to-date estimates of employment and payroll, hours and wages of production workers, value added by manufacture, cost of materials, value of shipments by product class, inventories, and expenditures for both plant and equipment and structures. The survey provides data for most of these items for each of the 5-digit and selected 6-digit industries as defined in the North American Industry Classification System (NAICS). It also provides geographic data by state at a more aggregated industry level.

The survey also provides valuable information to private companies, research organizations, and trade associations. Industry makes extensive use of the annual figures on product class shipments at the U.S. level in its market analysis, product planning, and investment planning. The ASM data are used to benchmark and reconcile monthly and quarterly data on manufacturing production and inventories. This ASM clearance request will be for the year 2011. There will be no changes to the information requested from respondents.

**II. Method of Collection**

The ASM statistics are based on a survey that includes both mail and nonmail components. The mail portion of the survey consists of a probability sample of approximately 51,000 manufacturing establishments that was selected from a frame of approximately 117,000 establishments. The frame contained all manufacturing establishments of multiunit companies (companies with operations at more than one location) plus the largest single-location manufacturing companies within each manufacturing industry. The nonmail component contains the remaining single-location companies; approximately 211,000 companies. No data are collected from companies in the nonmail component. Rather, data are directly obtained from the administrative records of the Internal Revenue Service (IRS), the Social Security Administration (SSA), and the Bureau of Labor Statistics (BLS). Although the nonmail companies account for nearly two-thirds of the population, they account for less than 7 percent of the manufacturing output.

The 51,000 sampled establishments in the mail portion of the ASM will be mailed either a long report form (MA–10000(L)) or a short form (MA–10000(S)) based on mail selection procedures. The MA–10000(L) will be mailed to all establishments of multiunit companies plus the large single-location companies. The remaining single-location companies in the sample will receive the MA–10000(S) form. We estimate that the MA–10000(L) will be mailed to approximately 48,000 establishments and the MA–10000(S) will be mailed to 3,000 establishments.

**III. Data**

*OMB Control Number:* 0607–0449.

*Form Number:* MA–10000(L), MA–10000(S). You can obtain information on the proposed content at this Web site: *http://www.census.gov/mcd/clearance.*

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit, non-profit institutions, small businesses or organizations, and state or local governments.

*Estimated Number of Respondents:*

| | |
|---|---|
| MA–10000(L)—(Long Form) ..... | 48,000 |
| MA–10000(S)—(Short Form) ..... | 3,000 |
| Total ..... | 51,000 |

*Estimated Time per Response:*

| | |
|---|---|
| MA–10000(L)—(Long Form) ..... | 4.0 hrs. |
| MA–1000(S)—(Short Form) ..... | 1.4 hrs. |

*Estimated Total Annual Burden Hours:* 196,200.

*Estimated Total Annual Cost:* $6,360,804.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Title 13, United States Code, Sections 182, 224, and 225.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 21, 2011.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2011–10055 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–07–P**

---

## DEPARTMENT OF COMMERCE

## Census Bureau

## Proposed Information Collection; Comment Request; Government Units Survey

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** To ensure consideration, written comments must be submitted on or before June 27, 2011.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Debra Coaxum, Chief, Sampling Frame Research and Development Branch, Governments Division, U.S. Census Bureau, Washington, DC 20233 (or via the Internet at *Debra.L.Coaxum@census.gov*).

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

The U.S. Census Bureau plans to request approval of the 2011 Government Units Survey data collection form. The Government Units Survey (GUS) is the directory survey for the 2012 Census of Governments. The survey has the following purposes: (1) To produce the official count of local government units in the United States; (2) To obtain descriptive information on the basic characteristics of governments; (3) To identify and delete inactive units; (4) To identify file duplicates and units that were dependent on other governments; and (5) To update and verify the mailing addresses of governments.

In 2007, the Government Organization form was mailed to special districts only. The form (G–30) collected only basic information on the governing board, authorizing legislation, the Web address, agency activity, and employment and payroll data. The employment and payroll data were used in lieu of a response to the March 2007 Census of Governments: Employment for special district governments.

For 2012, the GUS collects more data and will be mailed out to municipalities, townships, counties, and special districts. The GUS contains nine broad content areas: Background information, debt, license and permit fees, taxes, retirement/pension plan, government activity, public services, judicial or legal activities, and finance. The first eight content areas consist predominantly of yes/no questions and are designed to collect information on general characteristics of the government. The finance section of the questionnaire requests four numerical values on payroll, expenditures, revenue, and debt.

Two GUS forms are currently being pretested using a split panel design to study the effects of using headers to inform the respondent of section content versus a form with no section segmentation. The final questionnaire will be determined pending the results of the split panel design analysis.

## II. Method of Collection

Each of the estimated 76,500 non-school governments will be sent a form. Respondents will be asked to verify their existence, correct name and address information, answer questions on the form, and return it. Both a paper collection instrument and a Web collection instrument will be available for respondents to use beginning October 11, 2011.

## III. Data

*OMB Control Number:* 0607–0930.

*Form Number:* Not available at this time.

*Type of Review:* Regular submission.

*Affected Public:* County, municipality, township, and special district governments.

*Estimated Number of Respondents:* 76,500.

*Estimated Time per Response:* 0.67 hours.

*Estimated Total Annual Burden Hours:* 51,255.

*Estimated Total Annual Cost:* $1,242,934.

*Respondent's Obligation:* Voluntary.

**Legal Authority:** Title 13 U.S.C. Section 161.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 21, 2011.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2011–10068 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

### U.S. Census Bureau

### Proposed Information Collection; Comment Request; Annual Retail Trade Survey

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** To ensure consideration, written comments must be submitted on or before June 27, 2011.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Aneta Erdie, U.S. Census Bureau, Service Sector Statistics Division, Room 8K041, 4600 Silver Hill Road, Washington, DC 20233–6500, (301) 763–4841, (or via the Internet at *aneta.erdie@census.gov*).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Annual Retail Trade Survey (ARTS) covers employer firms with establishments located in the United States and classified in the Retail Trade and/or Accommodation and Food Services sectors as defined by the North American Industry Classification System (NAICS).

Firms are selected for this survey using a stratified random sample where strata are defined by industry and annual sales size. The sample, consisting of about 20,600 retail businesses, is drawn from the Business Register (BR). The BR is the Census Bureau's master business list and contains basic economic information for over 7.5 million employer businesses and over 21 million nonemployer businesses. The BR obtains information through direct data collections and administrative record information from other Federal agencies. The sample is updated quarterly to reflect employer business "births" and "deaths"; adding new employer businesses identified in the Business and Professional Classification Survey and deleting firms and EINs when it is determined they are no longer active.

The survey requests firms to provide annual sales, annual e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, accounts receivables, and, for selected industries, sales by merchandise line, percent of sales by class of customer, and percent of e-commerce sales to customers located outside the United States. These data are used to satisfy a variety of public and business needs such as economic market analysis, company performance, and forecasting future demands. Results will be available, at the United States summary level, for selected retail industries approximately fifteen months after the end of the reference year.

A new sample will be introduced with the 2011 ARTS. It is expected that approximately 60–70% of the companies that are asked to report will be doing so for the first time (and, consequently, 60–70% of the old sample will no longer be asked to report). In order to link estimates from the new and prior samples, we will be asking companies to provide data for 2011 and 2010. The 2012 ARTS and subsequent years will request one year of data until a new sample is once again introduced.

An additional change will occur with the 2012 ARTS. We will request data on detailed operating expenses that were previously requested under a separate supplemental mailing (conducted every 5 years). The last supplemental mailing was conducted for the 2007 ARTS under OMB Control No. 0607–0942. While the retail portion of that program will be collapsed into the ARTS, we will continue to ask only the additional detailed expense questions every 5 years.

The estimated time per response and estimated total annual burden hours, as reported below, were calculated using the first three years of the new ARTS sample and, therefore, accurately reflect the burden associated with requesting two years of data for the first year of the new ARTS sample and requesting detailed expense data in the second year of the new ARTS sample. We have found that the estimated time per response for a "typical" year (i.e., only one year of data is requested with no detailed expense data) of data is 34 minutes. We will lower our burden estimates with the 2013 ARTS.

### II. Method of Collection

We collect this information by mail, fax, telephone, and Internet.

### III. Data

*OMB Control Number:* 0607–0013.

*Form Number:* SA–44, SA–44A, SA–44C, SA–44E, SA–44N, SA–44S, SA–45, SA–45C, SA–7211A, SA–7211E, SA–721A, SA–721E, SA–722A, and SA–722E.

*Type of Review:* Regular submission.

*Affected Public:* Retail and/or accommodation and food services firms located in the United States.

*Estimated Number of Respondents:* 20,600.

*Estimated Time per Response:* 91 minutes (3-year average).

*Estimated Total Annual Burden Hours:* 31,243 hours (3-year average).

*Estimated Total Annual Cost:* $906,359.

*Respondent's Obligation:* Mandatory.

**Legal Authority:** Title 13, United States Code, Sections 182, 224, and 225.

### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 21, 2011.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2011–10067 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–07–P

## DEPARTMENT OF COMMERCE

### Economic Development Administration

**[Docket No.: 110420251–1255–01]**

### The Jobs and Innovation Accelerator Challenge; a Coordinated Initiative To Advance Regional Competitiveness

**AGENCY:** Economic Development Administration (EDA), Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Obama Administration announces the Jobs and Innovation Accelerator Challenge (Accelerator Challenge), an initiative of 16 Federal agencies and bureaus to accelerate innovation-fueled job creation and economic prosperity through public-private partnerships. The Accelerator Challenge will offer, subject to the availability of funds, a combination of $33 million in funding from three agencies and technical assistance resources from 13 additional agencies and bureaus to support customized solutions for approximately 20 competitively selected industry clusters in urban and rural regions across the nation and across all sectors. A competitive solicitation is expected to be announced in May 2011.

President Obama has prioritized the development of strong regions [1] as the building blocks of a strong and globally competitive American economy and as key elements in our strategy for winning the future. Understanding that jobs are not created on Capitol Hill but in America's regions, the Obama Administration is committed to smarter use of existing Federal resources to support regional innovation and sustainable economic prosperity. Knowing that regional innovation clusters provide a globally proven approach for developing economic prosperity, this new, multi-agency initiative creates an unprecedented platform for integrating and coordinating the wide range of Federal economic development resources.

Each Accelerator Challenge investment will serve as a catalyst for leveraging private capital in the regions from an array of sources such as foundations, financial institutions, corporations and other private sector partners. Through its unprecedented linking, aligning and leveraging of Federal resources and by building strategic public-private partnerships, the Accelerator Challenge will foster broad regional innovation, job creation, and global competitiveness.

Funds awarded to the winning applicants can be used to support and accelerate a range of measurable outcomes, including innovation, commercialization, business formation and expansion, development of a skilled workforce, job creation, exports, sustainable economic development and global competitiveness in approximately 20 industry clusters that exhibit high-growth development potential. These successful clusters will promote growth that is inclusive of the region's population.

This initiative represents the implementation of a number of Obama Administration policy priorities including:

- Acceleration of bottom-up innovation strategies encompassing urban and rural geographies, as opposed to imposing "one size fits all" solutions from Washington; and
- Reduction of Federal programs silos and promotion of more coordinated Federal funding opportunities that offer a more efficient system for customers to access Federal resources.

The partner agencies and bureaus include: Department of Commerce (EDA, National Institute for Standards and Technology (NIST), International Trade Administration (ITA), and Minority Business Development Agency (MBDA)); Department of Labor (Employment and Training Administration (ETA)); Small Business Administration (SBA); Department of Education (ED); Department of Agriculture (USDA); Environmental Protection Agency (EPA); National Science Foundation (NSF); Department of Transportation (DOT); Department of Health and Human Services (HHS); Department of the Treasury (TREAS); Department of Housing and Urban Development (HUD); and Department of Energy (DOE).

Subject to funding availability, the total proposed funding for the Accelerator Challenge is approximately $33 million in direct Federal support from the three funding agencies and bureaus: EDA, ETA, and SBA. Specific funding sources will be named in the forthcoming FFO.

Clusters selected for funding may receive specialized technical assistance or other resources from partner agencies and bureaus, which will offer this assistance from existing programs and initiatives. These resources include Federally funded assets that can be leveraged by the clusters and entities that are available for collaborative partnerships to strengthen the clusters.

Applicants will be asked to discuss several components of their cluster. They will be evaluated against criteria that include: evidence of a high-growth cluster; the cluster's needs and opportunities; a proposed project concept and scope of work; and the projected impact and measurable outcomes. Outcomes might include how Federal funds will be used to:

- Achieve sustainable economic growth in the region;
- Augment business formation, especially small businesses, and leverage existing businesses and manufacturing assets;
- Advance commercialization of Federal and private research and increase exports;
- Develop a skilled workforce through outreach, training, and the creation of career pathways; and
- Integrate historically underserved businesses and communities into the economic activities of the cluster.

For more information please visit *http://www.eda.gov/InvestmentsGrants/jobsandinnovationchallenge.*

Dated: April 22, 2011.

**Barry E. A. Johnson,**

*Senior Advisor and Director of Strategic Initiatives, Economic Development Administration.*

[FR Doc. 2011–10231 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–24–P

[1] Including rural, urban and multijurisdictional areas.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–888]**

### Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof From the People's Republic of China; Notice of Amended Final Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** Effective Date: April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4475, and (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Amendment to the Final Results

In accordance with sections 751(a) and 777(i)(1) of the Tariff Act of 1930, as amended, (the Act), on March 14,

2011, the Department issued its final results in the administrative review of the antidumping duty order on floor-standing, metal-top ironing tables and certain parts thereof from the People's Republic of China, covering the period August 1, 2008, to July 31, 2009. The final results were subsequently released to all parties in the proceeding, and published in the **Federal Register** on March 21, 2011. See *Floor Standing, Metal Top, Ironing Tables and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 76 FR 2332 (March 21, 2011) (*Final Results*). On March 22, 2011, and pursuant to section 751(h) of the Act and 19 CFR 351.224(c)(2), we received a timely allegation from Home Products International, the Petitioner in this administrative review, that the Department made ministerial errors with respect to two aspects of the margin calculation for Foshan Shunde Yongjian Housewares & Hardware Co. (Foshan Shunde). See Letter from Petitioner to the Department of Commerce, "Fifth Administrative Review of Floor Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Ministerial Errors Reflected in the Final Results of Review" dated March 22, 2011 (Petitioner Ministerial Letter).

On March 23, 2011, we received a timely-filed allegation from Since Hardware (Guangzhou) Co., Ltd. (Since Hardware) which alleged a ministerial error with respect to the Department's calculation of brokerage and handling. See Letter from Since Hardware to the Department of Commerce, titled "Floor-Standing Metal-Top Ironing Tables from China: Ministerial Error Comments" dated March 23, 2011 (Since Hardware Ministerial Letter). On March 25, 2011, we received comments from Petitioner regarding the ministerial error alleged by Since Hardware. See Letter from Petitioner to the Department of Commerce, regarding "Fifth Administrative Review of Floor-Standing, Metal-Top Ironing Tables and Certain Parts Thereof from the People's Republic of China: Petitioner's Reply to Ministerial Error Comments of Since Hardware (Guangzhou) Co., Ltd." dated March 25, 2011 (Petitioners' Response Letter). On March 28, 2011, we received comments from Foshan Shunde regarding one of the ministerial errors alleged by Petitioner. See Letter from Foshan Shunde to the Department of Commerce, regarding "Certain Ironing Boards from the People's Republic of China Rebuttal Comments re Petitioner's Ministerial Error Comment" dated March 28, 2011 (Foshan Shunde Response Letter).

For a discussion of the Department's analysis of the allegations in the Petitioner Ministerial Letter, Since Hardware Ministerial Letter, Foshan Shunde Response Letter, and Petitioner Response Letter, see Memorandum from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, entitled, "Allegation of Ministerial Errors in the Final Results of the Antidumping Duty Administrative Review of Floor Standing, Metal-Top Ironing Tables, and Certain Parts Thereof from the People's Republic of China: Foshan Shunde Yongjian Housewares & Hardwares Co., Inc and Since Hardware (Guangzhou) Co., Ltd." dated April 20, 2011 (Ministerial Error Allegation Memo).

A ministerial error, as defined at section 751(h) of the Act, includes "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which {the Department} considers ministerial." See also 19 CFR 351.224(f). In its Ministerial Letter, Petitioner alleges that the Department made two ministerial errors in calculating Foshan Shunde's antidumping duty margin. First, Petitioner alleges that the Department made a ministerial error by including in packing materials certain elements that Foshan Shunde had classified as direct materials in its questionnaire responses to the Department. Second, Petitioner alleges that in the calculation of brokerage and handling expense, the Department incorrectly applied the weight and container size values actually incurred by Foshan Shunde.

In its rebuttal letter, Foshan Shunde commented only on Petitioner's allegation concerning the weight and container size values incurred by Foshan Shunde.

After analyzing Petitioner's ministerial error comments and Foshan Shunde's rebuttal comments, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made ministerial errors with respect to both of the ministerial errors alleged by Petitioner. See Ministerial Error Allegation Memorandum at 2. The Department has corrected both the factors of production spreadsheet for Foshan Shunde and the margin program to reflect the correction of these errors.

In its Ministerial Letter, Since Hardware alleges that if the Department applies a weight based methodology to calculate brokerage and handling, it must change the data selected so as not to derive distorted results. In its rebuttal comments, Petitioner asserts there is no ministerial error in the Department's calculation of Since Hardware's brokerage and handling cost. Petitioner asserts that the Department's *Final Results* reflect the container size and shipment weight which the Department intended to use in its calculations. After analyzing Since Hardware's ministerial error comments and Petitioner's rebuttal comments, we have determined that we made no error in our calculation of Since Hardware's brokerage and handling. *Id.* Accordingly, we have made no changes to our calculation of Since Hardware's final margin.

Based upon the foregoing, in accordance with 19 CFR 351.224(e), we are amending the final results margin calculation in this antidumping duty administrative review of ironing tables and certain parts thereof from the People's Republic of China for Foshan Shunde. After correcting for the ministerial errors with respect to (1) the elements included within direct materials and packing, and (2) the weight and container size values incurred by Foshan Shunde, the amended final weighted-average dumping margin has changed for Foshan Shunde:

| Manufacturer/Exporter | Final results weighted-average margin percentage | Amended final weighted-average margin percentage |
|---|---|---|
| Foshan Shunde | 18.76 percent | 23.61 percent. |

**Assessment Rates**

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these amended final results of review. For assessment purposes, where possible, we calculated importer-specific assessment rates for subject ironing tables from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for any entries made on or after March 21, 2011, the date of publication of the *Final Results,* for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For Foshan Shunde the cash deposit rate will be the amended 23.61 percent shown above; (2) for Since Hardware, the cash deposit rate will continue to be 70. 05 percent; (3) for previously-investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (4) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 157.68 percent; and (5) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification of Interested Parties**

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

We are issuing and publishing these amended final results of review and notice in accordance with sections 751(h) and 777(i) of the Act.

Dated: April 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–10227 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–DS–P

---

## 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 March anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

**DATES:** *Effective Date:* April 27, 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 March 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 time.

**Notice of No Sales**

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review ("POR"), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. 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 ("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 period of review ("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 calendar 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 Status 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 of 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 section 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 March 31, 2012.

| | Period to be reviewed |
|---|---|
| **Antidumping Duty Proceedings** | |
| Brazil: Certain Orange Juice, A–351–840 | 3/1/10–2/28/11 |
| Fischer S.A Comercio, Industria, and Agricultura | |
| Sucocitrico Cutrale Ltda.[3] | |
| Coinbra-Frutesp S.A. | |
| Montecitrus Trading S.A. | |
| Louis Dreyfus Commodities Agroindustrial S.A.[4] | |
| Germany: Brass Sheet and Strip, A–428–602 | 3/1/10–2/28/11 |
| Wieland-Werke AG. | |
| Thailand: Circular Welded Carbon Steel Pipes and Tubes, A–549–502 | 3/1/10–2/28/11 |
| Saha Thai Steel Pipe (Public) Company, Ltd. | |
| Pacific Pipe Public Company Limited. | |
| The People's Republic Of China: Certain Tissue Paper Products[5], A–570–894 | 3/1/10–2/28/11 |
| Max Fortune Industrial Limited. | |
| Max Fortune (FZ) Paper Products Co., Ltd. (f/k/a Max Fortune (FETDE) Paper Products Co., Ltd.) | |
| Max Fortune (Vietnam) Paper Products Company Limited | |
| Fuzhou Tian Jun Trading Co., Ltd. (a/k/a Fuzhou Tianjun Foreign Trade Co., Ltd.) | |
| The People's Republic of China: Glycine[6], A–570–836 | 3/1/10–2/28/11 |
| A&A Pharmachem Inc. | |
| Advance Exports. | |
| AICO Laboratories Ltd. | |
| Avid Organics. | |
| Baoding Mantong Fine Chemistry Co., Ltd. | |
| Beijing Onlystar Technology Co. Ltd. | |
| China Jiangsu International. | |
| Chiyuen International Trading Ltd. | |

[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 proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently complete 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 Certification.

| | Period to be reviewed |
|---|---|
| E-Heng Import & Export Co., Ltd. | |
| General Ingredient Inc. | |
| Hebei Donghua Chemical General Corporation. | |
| Hebei Donghua Jiheng Fine Chemical. | |
| H.K. Tangfin Chemicals Co., Ltd. | |
| Jizhou City Huayang Chemical Co., Ltd. | |
| Kissner Milling Co. Ltd. | |
| Long Dragon Company Ltd. | |
| Nantong Dongchang Chemical Industry Corp. | |
| Nutracare International. | |
| Paras Intermediates Pvt. Ltd. | |
| Qingdao Samin Chemical Co., Ltd. | |
| Ravi Industries. | |
| Salvi Chemical Industries. | |
| Shaanxi Maxsun Trading Co., Ltd. | |
| Shijiazhuang Green Carbon Products Co., Ltd. | |
| Showa Denko K.K. | |
| Sinochem Qingdao Company, Ltd. | |
| Sino-Siam Resources Imp. & Exp. Co., Ltd. | |
| Tianjin Tiancheng Pharmaceutical Company. | |
| Universal Minerals. | |
| Yuki Gosei Kogyo Co., Ltd. | |
| The People's Republic of China: Sodium Hexametaphosphate [7], A–570–908 | 3/1/10–02/28/11 |
| Hubei Xingfa Chemical Group Co., Ltd. | |
| **Countervailing Duty Proceedings** | |
| Turkey: Welded Carbon Steel Pipe and Tube, C–489–502 | 1/1/10–12/31/10 |
| Borusan Group. | |
| Borusan Mannesmann Boru Sanayi ve Ticaret A.S. | |
| Borusan Istikbal Ticaret T.A.S. | |
| ERBOSAN Erciyas Boru Sanayi ve Ticaret A.S. | |
| Tosyali dis Ticaret A.S. | |
| Toscelik Profil ve Sac Endustrisi A.S. | |
| **Suspension Agreements** | |
| None. | |

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 at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised

[3] The petitioners also requested a review of Sucocitrico Cutrale S.A., which we have determined in prior segments of this proceeding is the same company as Sucocitrico Cutrale Ltda.

[4] Louis Dreyfus Commodities Agroindustrial S.A. claimed in its request for review that it is the successor-in-interest to Coinbra-Frutesp S.A. and we are currently evaluating this claim.

[5] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Tissue Paper Products 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.

[6] If one of the above-named companies does not qualify for a separate rate, all other exporters of Glycine 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 the above-named company does not qualify for a separate rate, all other exporters of Sodium Hexametaphosphate 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.

certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011 if the submitting party does not comply with the revised certification requirements.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1765(a)), and 19 CFR 351.221(c)(1)(i).

April 19, 2011.

**Gary Taverman,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2011–10185 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–975, A–201–840]**

### Galvanized Steel Wire From the People's Republic of China and Mexico: Initiation of Antidumping Duty Investigations

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Catherine Bertrand at (202) 482–3207 (the People's Republic of China (the "PRC")), AD/CVD Operations, Office 9; or Angelica Mendoza at (202) 482–3019 (Mexico), AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

#### The Petitions

On March 31, 2011, the Department of Commerce (the "Department") received petitions concerning imports of galvanized steel wire from the PRC and Mexico filed in proper form on behalf of Davis Wire Corporation ("Davis Wire"), Johnstown Wire Technologies, Inc., Mid-South Wire Company, Inc., National Standard, LLC, and Oklahoma Steel & Wire Company, Inc., (collectively, "Petitioners"). *See* Petitions for the Imposition of Antidumping Duties on Galvanized Steel Wire from Mexico and Antidumping and Countervailing Duties on Galvanized Steel Wire from the People's Republic of China filed on March 31, 2011 (the "Petitions"). On April 6, 2011, the Department issued a request for additional information and clarification of certain areas of the Petitions. Petitioners filed a response to this request on April 11, 2011 (hereinafter, "Supplement to the PRC Petition," "Supplement to the Mexico Petition," and "Supplement to the AD/CVD Petitions," respectively). Based on a conversation with Department officials, Petitioners filed a further response on April 14, 2011 (hereinafter, "Second Supplement to the AD/CVD Petitions"). In addition they provided the Department with an additional required certification on April 15, 2011. *See* Certification Letter filed April 15, 2011.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the "Act"), Petitioners allege that imports of galvanized steel wire from the PRC and Mexico are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because Petitioners are interested parties as defined in section 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the antidumping duty investigations that Petitioners are requesting that the Department initiate (*see* "Determination of Industry Support for the Petitions" section below).

#### Period of Investigation

The period of investigation ("POI") for the investigation involving the PRC is July 1, 2010, through December 31, 2010. The POI for the investigation involving Mexico is January 1, 2010, through December 31, 2010. *See* 19 CFR 351.204(b)(1).

#### Scope of Investigations

The product covered by these investigations is galvanized steel wire from the PRC and Mexico. For a full description of the scope of the investigations, please *see* the "Scope of the Investigations," in Appendix I of this notice.

#### Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 10, 2011, twenty calendar days from the signature date of this notice. All comments must be filed on the records of the PRC and Mexico antidumping duty investigations as well as the PRC countervailing duty investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

#### Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of galvanized steel wire to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as 1) general product characteristics and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe galvanized steel wire, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and

issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by May 10, 2011. Additionally, rebuttal comments must be received by May 17, 2011.

**Determination of Industry Support for the Petitions**

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that galvanized steel wire constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Galvanized Steel Wire from the PRC ("PRC Initiation Checklist") at Attachment II, and Antidumping Duty Investigation Initiation Checklist: Galvanized Steel Wire from Mexico ("Mexico Initiation Checklist") at Attachment II, dated concurrently with this notice and on file in the Central Records Unit ("CRU"), Room 7046 of the main Department of Commerce building.

In determining whether Petitioners have standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in Appendix I of this notice. To establish industry support, Petitioners provided their own 2010 production of the domestic like product, and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at I–3 through I–5 and Exhibits I–1 through I–5, Supplement to the AD/CVD Petitions, at 1, 7, and Exhibit (Supp-I)–7, and Second Supplement to the AD/CVD Petitions, at (Second Supp)–2, Exhibit (Second Supp)–2, and Second Revised Exhibit I–1; *see also* PRC Initiation Checklist at Attachment II and Mexico Initiation Checklist at Attachment II.

On April 14, 2011, we received an industry support challenge from a Mexican producer of galvanized steel wire and its U.S. affiliate. *See* Letter from Deacero, titled "Galvanized Steel Wire from Mexico—Comments on Industry Support," dated April 14, 2011.[1] Petitioner responded to this submission on April 18, 2011. *See* Letter from Petitioners, titled "Petitioners' Response to Question about U.S. industry," dated April 18, 2011. Our review of the data provided in the Petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. *See* PRC Initiation Checklist at Attachment II and Mexico Initiation Checklist at Attachment II. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 732(c)(4)(D) of the Act; *see also* PRC Initiation Checklist at Attachment II and Mexico Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. *See* PRC Initiation Checklist at Attachment II and Mexico Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See id.*

The Department finds that Petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping duty investigations that they are requesting the Department initiate. *See id.*

[1] On April 18, 2011, the Department placed Deacero's filing on the records of the AD and CVD petitions concerning the PRC. *See* Memorandum to the File from Norbert Gannon, Office of Policy, entitled, Petitions for the Imposition of Antidumping Duties on Imports of Galvanized Steel Wire from the People's Republic of China (the PRC) and Mexico and Countervailing Duties on Imports of Galvanized Steel Wire from the PRC—Deacero S.A. de C.V.'s April 14, 2011, Letter to the Department of Commerce.

**Allegations and Evidence of Material Injury and Causation**

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act. Petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales and revenues, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* PRC Initiation Checklist at Attachment III and Mexico Initiation Checklist at Attachment III.

**Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of galvanized steel wire from the PRC and Mexico. The sources of data for the deductions and adjustments relating to the U.S. price, the factors of production ("FOPs") (for the PRC) and cost of production ("COP") (for Mexico) are also discussed in the country-specific initiation checklists. *See* PRC Initiation Checklist at 6–10 and Mexico Initiation Checklist at 6–10.

**Export Price**

*The PRC*

For the PRC, Petitioners calculated export price ("EP") based on offers for sale of galvanized steel wire by certain Chinese exporters/resellers and declarations of lost U.S. sales by U.S. producers during the POI, as identified in two Declarations Regarding Lost U.S. Sales and four Declarations Regarding U.S. Sales Offers provided by Petitioners. *See* PRC Initiation Checklist at 6; *see also* Volume III of the Petitions at Exhibit III–5. Petitioners substantiated the U.S. price quotes with affidavits. *See* Supplement to the PRC Petition at Exhibit (Supp-III)–5. Based on stated sales and delivery terms, Petitioners deducted adjustments, charges and expenses associated with exporting and delivering to the U.S. customer, including brokerage and handling, ocean freight and insurance, U.S. duties and U.S. inland freight charges, and distributor mark-up, where appropriate. *See* PRC Initiation Checklist at 6; *see also* Volume III of the Petitions at III–5, Exhibit III–5 and Exhibit III–6, and Supplement to the PRC Petition at (Supp-III)–11 and Exhibit (Supp-III)–6. Petitioners made no other adjustments. *See* PRC Initiation Checklist for additional details.

**Mexico**

For Mexico, Petitioners based U.S. EP on offers of sale for major types of galvanized steel wire for delivery to U.S. customers during the POI. *See* Mexico Initiation Checklist at 7; *see also* Volume II of the Petitions at II–6 and Exhibits II–5 and II–6. The prices were listed on multiple declarations which were made by a senior marketing executive at Davis Wire. In each offer, the Davis Wire representative discussed certain prices for galvanized steel wire with these customers regarding potential sales. *See* Volume II of the Petitions at Exhibit II–5. In certain instances, the customer sourced galvanized steel wire from Davis Wire, but only after Davis Wire matched the price quote from the Mexican producer. In other instances, rather than source galvanized steel wire from Davis Wire, the customers decided to purchase galvanized steel wire imported from Mexico at prices listed on each declaration, which Petitioners used as the basis for U.S. price. *See* Supplement to the Mexico Petition at Exhibit (Supp-II)–5. Based on the stated sales and delivery terms, Petitioners then adjusted the U.S. prices to account for expenses associated with exporting and delivering the product to these specific U.S. customers (*i.e.,* ocean freight and insurance, U.S. duties and U.S. inland freight charges, and distributor mark-up, where appropriate). *See* Mexico Initiation Checklist at 7; *see also* Volume II of the Petitions at page II–6 and Exhibits II–5 and II–6.

**Normal Value**

*The PRC*

Petitioners state that the Department has long treated the PRC as a non-market economy ("NME") country and this designation remains in effect today. *See* Volume III of the Petitions at III–1 through III–2; *see also Drill Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 76 FR 1966, 1968 (January 11, 2011); *see also Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances, in Part,* 75 FR 57449, 57452 (September 21, 2010).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of the PRC investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on FOPs valued in a surrogate market-economy ("ME") country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners claim that India is an appropriate surrogate country under section 773(c) of the Act because it is an ME country that is at a comparable level of economic development to the PRC and surrogate values data from India are available and reliable. Petitioners believe that India is a significant producer of merchandise under consideration and is a very significant producer of related steel wire products. Petitioners are not aware of significant production of galvanized steel wire among other potential surrogate countries, such as the Philippines, Indonesia, Thailand, Ukraine, and Peru. *See* Volume III of the Petitions at III–2 through III–3 and Exhibit III–1. Based on the information provided by Petitioners, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 40 days after the date of publication of the preliminary determination.

Petitioners calculated the NV and dumping margins for the U.S. price, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated NV based on consumption rates experienced by two non-integrated U.S. producers. Petitioners assert that, to the best of Petitioners' knowledge, the

consumption rates of these two U.S. producers are very similar, if not identical, to the consumption of Chinese producers. *See* Volume III of the Petitions at III–3 and Exhibit III–2, and Supplement to the PRC Petition at (Supp-III)–1 through (Supp-III)–2.

Petitioners valued by-product and most FOPs based on reasonably available, public surrogate country data, specifically, Indian import statistics from the Global Trade Atlas ("GTA"). *See* Volume III of the Petitions at III–4 and Exhibit III–3. Petitioners excluded from these import statistics values from countries previously determined by the Department to be NME countries, and from Indonesia, the Republic of Korea and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[2] *See* Volume III of the Petitions at III–4 and Exhibit III–3. For valuing other FOPs, Petitioners used sources selected by the Department in recent proceedings involving the PRC. *See* Volume III of the Petitions at III–4, and Exhibit III–3. In addition, Petitioners made Indian Rupee/U.S. dollar ("USD") and Thai Baht/USD currency conversions using average exchange rates for the POI, based on Federal Reserve exchange rates. *See* Volume III of the Petitions at III–4 and Exhibit III–3, and Supplement to the PRC Petition at Exhibit (Supp-III)–3. Petitioners determined labor costs using the labor consumption rates derived from two U.S. Producers. *See* Volume III of the Petitions at Exhibit III–2. Petitioners valued labor costs using the calculated wage rate in a recent review involving steel wire nails from China. *See* Volume III of the Petitions at Exhibit III–3, and Supplement to the PRC Petition at (Supp-III)–6. For purposes of initiation, the Department determines that the surrogate values used by Petitioners are reasonably available and, thus, acceptable for purposes of initiation.

Petitioners determined electricity costs using the electricity consumption rates, in kilowatt hours, derived from two U.S. producers' experience. *See* Volume III of the Petitions at Exhibit III–2. Petitioners valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India, the source used in the fifth administrative review of *Certain Frozen Warmwater Shrimp from the PRC. See* Volume III of the Petitions at Exhibit III–3; *citing Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of the Fifth Antidumping Duty Administrative Review,* 76 FR 8338 (February 14, 2011) ("*Certain Frozen Warmwater Shrimp from the PRC*").

Petitioners determined water costs using the water consumption derived from two U.S. producers' experience. *See* Volume III of the Petitions at Exhibit III–2. Petitioners valued water based on information from the Maharashtra Industrial Development Corporation, the source used in the fifth administrative review of *Certain Frozen Warmwater Shrimp from the PRC. See* Volume III of the Petitions at Exhibit III–3.

Petitioners determined natural gas costs using the natural gas consumption rates derived from two U.S. producers' experience. *See* Volume III of the Petitions at Exhibit III–2. Petitioners valued natural gas costs using the calculation performed by the Department in the fifth administrative review of *Pure Magnesium from the PRC* and converted the Thai Baht[3] value using average exchange rates for the POI, based on Federal Reserve exchange rates. *See* Volume III of the Petitions at III–4 and Exhibit III–3; *citing Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 73 FR 76336 (December 16, 2008).

Four financial statements were placed on the record for consideration to value factory overhead, selling, general and administrative ("SG&A"), and profit. Petitioners placed the financial statements of Indian producers Usha Martin Limited ("Usha Martin"), Tata Steel ("Tata"), and Sterling Tools Limited ("Sterling") on the record. The Department placed the statement of Indian producer Visakha Wire Ropes Limited ("Visakha") on the record.

The Department has determined not to use Sterling Tools Limited ("Sterling") for valuation of the financial ratios because its raw material input is steel bar and not wire rod. Sterling does not draw wire; therefore, its production process is not similar to that of galvanized steel wire producers because drawing wire rod into wire is a continuous process, whereas steel bar is a cut-to-length product.

Tata and Usha Martin do not match the level of integration of the production experience used for the normal value calculation in the Petition, and benefit from subsidies the Department has previously found to be countervailable.[4] However, they both make wire from wire rod and produce comparable merchandise using a similar production process. We also find that Visakha's production process is similar to the production experience used for the normal value calculation in the Petition in that it is the same level of integration and Visakha draws wire from wire rod. Although, Petitioners argued that the Visakha statement appears to be incomplete the Department notes that it is our practice to only disregard incomplete financial statements as a basis for calculating surrogate financial ratios where the statement is missing key sections, such as sections of the auditor's report, that are vital to our analysis and calculations. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004–2005 Semi-Annual New Shipper Reviews,* 71 FR 70739 (December 6, 2006), and accompanying Issues and Decision Memorandum at Comment 2. Here, we find that the Visakha statement appears to contain all of the essential components of an audited financial statement, and Petitioners have not alleged that any specific material information is missing. We recognize the statements of Usha Martin, Tata and Visakha financial statements are not an exact match to the production experience of galvanized steel wire producers. However, after considering all available information on the record, the Department determines that the financial statements of Usha Martin, Tata, and Visakha are sufficiently representative to value the surrogate financial ratios for galvanized steel wire.

Further, the Department has a preference for using multiple financial statements in order to determine surrogate financial ratios for manufacturing overhead, SG&A expenses, and profit where no single source on the record has proven to be entirely representative. *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final*

[2] *See, e.g., Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value,* 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008) ("*PET Film*").

[3] Petitioners did not place an Indian value for natural gas on the record of this proceeding.

[4] Duty Entitlement Passbook Scheme.

*Determination of Critical Circumstances and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010), and accompanying Issues and Decision Memorandum at Comment 13 ("*OCTG Final*"). Accordingly, we are averaging the surrogate financial ratios of Usha Martin, Tata, and Visakha and based on a simple average of these three financial statements, we have revised the margins calculated by Petitioners. *See* PRC Initiation Checklist at Appendix V.

*Mexico*

Petitioners calculated NV for galvanized steel wire using, initially, information they were able to obtain about home market prices. *See* Mexico Initiation Checklist at 8; *see also* Volume II of the Petitions at II–1 through II–2 and Exhibit II–1; *see also* Supplement to the Mexico Petition at Exhibit (Supp-II)–1. However, because Petitioners demonstrated that there are reasonable grounds to believe that these home market prices were below cost, they based NV on constructed value ("CV") in accordance with section 773(e)(1) of the Act. *See* Volume II of the Petitions at II–4; *see also* the "Normal Value Based on Constructed Value" section of this notice.

**Sales-Below-Cost Allegation**

Petitioners have provided information demonstrating reasonable grounds to believe or suspect that sales of galvanized steel wire in the Mexican market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. The Statement of Administrative Action ("SAA"), submitted to Congress in connection with the interpretation and application of the Uruguay Round Agreements Act ("URAA"), states that an allegation of sales below COP need not be specific to individual exporters or producers. *See* SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.*

**Cost of Production**

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing ("COM"); SG&A expenses; financial expenses; and packing expenses. Petitioners calculated raw materials, labor, energy, and packing costs based on the average production experience of two U.S. producers of galvanized steel wire adjusted for known differences to manufacture galvanized steel wire in Mexico using publicly available data. *See* Mexico Initiation Checklist at 8–10. For further discussion regarding Petitioners' calculation of raw materials, labor, energy, and packing, *see* the "Normal Value Based on Constructed Value" section of this notice. Petitioners could not find financial statements for a Mexican manufacturer that produced comparable merchandise which did not have a fully integrated manufacturing process, and therefore, reported zero overhead expense in calculating COP and CV. While this is a conservative approach for the initiation, if the Department needs to rely on the Petition rate as facts available during the proceeding, it may be necessary to calculate an overhead cost using some reasonable alternative in calculating COP and CV. To calculate the SG&A and profit, Petitioners relied on the fiscal year 2009 financial statements of a Mexican producer of comparable merchandise. *See* the "Normal Value Based on Constructed Value" section of this notice; *see also* Volume II of the Petitions at II–5 and Exhibit II–3; Second Supplement to the AD/CVD Petitions at (Second SUPP)–3 and Revised Exhibits II–4 and II–6.

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

**Normal Value Based on Constructed Value**

Because Petitioners alleged sales below cost, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, they calculated NV based on CV. Petitioners based CV on the average of two U.S. producers' actual consumption of direct materials, direct labor, energy, and general expenses, plus amounts for profit and packing, for several major types of galvanized steel wire. *See* Volume II of the Petitions at II–4 and Exhibit I–2. Believing the consumption experience of domestic U.S. producers to be very similar to consumption in the Mexican galvanized steel wire market, due to the little difference in production processes between Mexican and U.S. galvanized steel wire producers, Petitioners calculated raw materials, labor, energy, and packing costs on that experience. *See* Volume II of the Petitions at II–4 and footnote 8. Petitioners provided Mexican import statistics from the GTA to demonstrate the value of each raw material input for purposes of calculating direct materials. *See* Volume II of the Petitions at Exhibit II–3; *see also* Supplement to the Mexico Petition at Exhibit (Supp-II)–3. Petitioners based cost of labor on expected wages in Mexico as recorded on the Import Administration Web site. *See* Volume II of the Petitions at II–5. As discussed in the "Cost of Production" section of this notice, Petitioners reported zero overhead expense in calculating COP and CV. Petitioners provided financial statements for the year 2009 from Ternium Mexico S.A. de C.V. (Ternium), a Mexican manufacturer of comparable merchandise, for the calculation of SG&A and profit. *See* Volume II of the Petitions at II–5 and Exhibit II–3; *see also* Supplement to the Mexico Petition at (Supp-II)–5 through (Supp-II)–6; Second Supplement to the AD/CVD Petitions at (Second Supp)–3 and Revised Exhibits II–4 and II–6; *see also* Mexico Initiation Checklist.

**Fair Value Comparisons**

Based on the data provided by Petitioners, there is reason to believe that imports of galvanized steel wire from the PRC and Mexico are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EPs and NV calculated in accordance with section 773(c) of the Act, the estimated dumping margins for galvanized steel wire from the PRC, using the Department's revised financial ratios, range from 171 percent to 235 percent. *See* PRC Initiation Checklist at 10 and Appendix V. Based on a comparison of EPs and CV calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margins for galvanized steel wire from Mexico range from 166 percent to 244 percent. *See* Mexico Initiation Checklist at 11; *see also* Second Supplement to the AD/CVD Petitions at Revised Exhibit II–6.

**Initiation of Antidumping Investigations**

Based upon the examination of the Petitions on galvanized steel wire from the PRC and Mexico, the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of galvanized steel wire from the PRC and Mexico are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of these initiations.

**Targeted Dumping Allegations**

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that "{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *See id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in either of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country-specific preliminary determination.

**Respondent Selection**

*The PRC*

After considering the large number of producers and exporters of galvanized steel wire from the PRC identified by Petitioners, and considering the resources that must be utilized by the Department to mail quantity and value questionnaires to all 279 identified producers and exporters—including entering each address in a shipping handler's Web site, researching companies' addresses to ensure correctness, organizing mailings, and following up on potentially undeliverable mailings—the Department has thus determined that we do not have sufficient administrative resources to mail quantity and value questionnaires to all 279 identified producers and exporters. *See* Volume I of the Petitions at Exhibit I–10, and Supplement to the PRC Petition, at Exhibit (Supp–III)–I. Therefore, the Department has determined to limit the number of quantity and value questionnaires it will send out to exporters and producers based on U.S. Customs and Border Protection ("CBP") data for U.S. imports under the Harmonized Tariff Schedule of the United States ("HTSUS") numbers 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, and 7217.20.4580. These are the same HTSUS numbers used by Petitioners to demonstrate that dumping occurred during the POI, and closely match the subject merchandise. *See* Volume I of the Petitions at Exhibit I–8 and Exhibit I–12; *see also* Appendix I of this notice. The Department will review the CBP data and comments from parties on the CBP data to determine how many quantity and value questionnaires we will mail to producers and exporters of galvanized steel wire from the PRC.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the deadline noted below in order to receive consideration for separate-rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China,* 70 FR 21996, 21999 (April 28, 2005). Although the Department is limiting the number of quantity and value questionnaires it will send out, exporters and producers of galvanized steel wire that do not receive quantity and value questionnaires that intend to submit a response can obtain a copy from the Import Administration Web site. The Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* and a response to the quantity and value questionnaire is due no later than May 25, 2011.

**Mexico**

Following standard practice in AD investigations involving ME countries, the Department intends to select respondents based on CBP data for U.S. imports under the HTSUS numbers 7217.20.30 and 7217.20.45. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within seven days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

**Separate Rates**

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005) ("Separate Rates and Combination Rates Bulletin"), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull05-1.pdf.* Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that

respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of the publication of this initiation notice in the **Federal Register**.

**Use of Combination Rates in an NME Investigation**

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

*See* Separate Rates and Combination Rates Bulletin, at 6 (emphasis added).

**Distribution of Copies of the Petitions**

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petitions have been provided to the representatives of the Governments of the PRC and Mexico. Because of the large number of producers/exporters identified in the Petitions, the Department considers the service of the public version of the Petitions to the foreign producers/exporters satisfied by the delivery of the public versions of the Petitions to the Governments of the PRC and Mexico, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

**Preliminary Determinations by the ITC**

The ITC will preliminarily determine, no later than May 16, 2011, whether there is a reasonable indication that imports of galvanized steel wire from the PRC and Mexico are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

**Notification to Interested Parties**

Interested parties must submit applications for disclosure under APO 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). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491* (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) & (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix I

**Scope of the Investigations**

The scope of these investigations covers galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of solid, circular cross section with an actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating).

Steel products to be included in the scope of these investigations, regardless of Harmonized Tariff Schedule of the United States ("HTSUS") definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.02 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

The products subject to these investigations are currently classified in subheadings 7217.20.30 and 7217.20.45 of the HTSUS which cover galvanized wire of all diameters and all carbon content. Galvanized wire is reported under statistical reporting numbers 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, and 7217.20.4580. These products may also enter under HTSUS subheadings 7229.20.0015, 7229.90.5008, 7229.90.5016, 7229.90.5031, and 7229.90.5051. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2011–10220 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–DS–P

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–972, A–583–848]**

### Certain Stilbenic Optical Brightening Agents From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Shawn Higgins at (202) 482–0679 or Robert Bolling at (202) 482–3434 (People's Republic of China), AD/CVD Enforcement, Office 4 or Hermes Pinilla at (202) 482–3477 or Sandra Stewart at (202) 482–0768 (Taiwan), AD/CVD Enforcement, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

## The Petitions

On March 31, 2011, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of certain stilbenic optical brightening agents (stilbenic OBAs) from the People's Republic of China (PRC) and Taiwan filed in proper form by the Clariant Corporation (the petitioner). *See Antidumping Duty Petitions on Certain Stilbenic Optical Brightening Agents from the People's Republic of China and Taiwan* (March 31, 2011) (the Petitions). The petitioner is a domestic producer of stilbenic OBAs. On April 4, 2011, the Department issued a request for additional information and clarification of certain areas of the Petitions. On April 7, 2011, in response to the Department's request, the petitioner filed an amendment to the Petitions. *See Certain Stilbenic Optical Brightening Agents from the People's Republic of China and Taiwan; Amendment to Petitions* (April 7, 2011) (Supplement to the PRC AD Petition or Supplement to the Taiwan AD Petition).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of stilbenic OBAs from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting. *See* the "Determination of Industry Support for the Petitions" section below.

## Period of Investigation

Because the Petitions were filed on March 31, 2011, the period of investigation (POI) for the PRC investigation is July 1, 2010, through December 31, 2010. The POI for the Taiwan investigation is January 1, 2010, through December 31, 2010. *See* 19 CFR 351.204(b)(1).

## Scope of the Investigations

The products covered by these investigations are certain OBAs from the PRC and Taiwan. For a full description of the scope of the investigations, see the "Scope of the Investigations," in Appendix I of this notice.[1]

## Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 10, 2011, twenty calendar days from the signature of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

## Comments on Product Characteristics for Antidumping Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of stilbenic OBAs to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product-comparison criteria. We find that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe stilbenic OBAs, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, we must receive comments at the above address by May 10, 2011. Additionally, rebuttal comments limited to those issues raised in the comments must be received by May 17, 2011.

## Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the

[1] *See also* Memorandum to File from Shawn Higgins, dated April 14, 2011, regarding telephone conversation with counsel for the petitioner regarding the scope of the Petitions.

Department's determination is subject to limitations of time and information because the Department determines industry support at the time of initiation. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (CAFC 1989), *cert.* denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like-product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of these investigations. Based on our analysis of the information submitted on the record, we have determined that stilbenic OBAs constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like-product analysis in these cases, see the Antidumping Duty Investigation Initiation Checklist: Certain Stilbenic Optical Brightening Agents from the PRC (PRC Initiation Checklist) at Attachment II and the Antidumping Duty Investigation Initiation Checklist: Certain Stilbenic Optical Brightening Agents from Taiwan (Taiwan Initiation Checklist) at Attachment II, on file in the Central Records Unit, Room 7046 of the main Department of Commerce building.

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry-support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations" in Appendix I of this notice. To establish industry support, the petitioner provided its own 2010 production data of the domestic like product and compared this to total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions at 3 and Exhibits I–1 and I–16; *see also* PRC Initiation Checklist at Attachment II and Taiwan Initiation Checklist at Attachment II.

The Department's review of the data provided in the Petitions, supplemental responses, and other information readily available to the Department indicates that the petitioner has established industry support. First, based on information provided in the Petitions, the petitioner established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). *See* section 732(c)(4)(D) of the Act; *see also* PRC Initiation Checklist at Attachment II and Taiwan Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. *See* PRC Initiation Checklist at Attachment II and Taiwan Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See id.*

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department to initiate. *See id.*

**Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, a lower capacity-utilization rate, fewer shipments, underselling, price depression or suppression, lost revenue, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are supported by adequate evidence and meet the statutory requirements for initiation. *See* PRC Initiation Checklist at Attachment III and Taiwan Initiation Checklist at Attachment III.

**Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of stilbenic OBAs from the PRC and Taiwan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the PRC Initiation Checklist and Taiwan Initiation Checklist.

**Alleged U.S. Price and NV: The PRC**

The petitioner states that PRC exporters/producers first sell subject merchandise in the United States to unaffiliated resellers. *See* Volume III of the Petitions at 13–14. The petitioner does not have access, however, to the prices charged by PRC producers to U.S. resellers. *Id.* As a result, to calculate export price (EP), the petitioner based its calculation on the prices charged by U.S. resellers of PRC stilbenic OBAs to a U.S. customer. *Id.* Specifically, the petitioner calculated EP based on a price at which revenues were lost due to a competing bid from a supplier of PRC stilbenic OBAs. *See* Supplement to the PRC AD Petition at Exhibits 32 and 33. The petitioner substantiated the price used as a basis for the EP calculation with an affidavit. *See* Supplement to the PRC AD Petition at Exhibit 32. The price used as a basis for the EP calculation is a delivered price to an end-user for stilbenic OBAs supplied in a solution state. *See* Volume III of the Petitions at 14. To calculate EP for stilbenic OBAs in a solution state, the petitioner adjusted the EP based on the terms of sale for brokerage and handling in the port of export, international freight, U.S. customs duties, U.S. reseller markup, and U.S. inland freight. To calculate EP for stilbenic OBAs in a powder state, the petitioner adjusted the EP based on the terms of sale for brokerage and handling in the port of export, international freight, U.S. customs duties, U.S. reseller markup, further manufacturing (*i.e.,* dilution), and U.S. inland freight.

*See* Volume III of the Petitions at 13–17 and Supplement to the PRC AD Petition at Exhibit 33.

The petitioner states that the PRC is a non-market economy (NME) country and no determination to the contrary has been made by the Department. *See* Volume III of the Petitions at 2–3. In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of the PRC investigation. Accordingly, the NV of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Citing section 773(c)(4) of the Act, the petitioner contends that India is the appropriate surrogate country for the PRC because it is at a level of economic development comparable to that of the PRC and it is a significant producer of stilbenic OBAs. *See* Volume III of the Petitions at 3–5 and Exhibit III–1. Also, the petitioner states that Indian data for valuing factors of production are available and reliable. *See* Volume III of the Petitions at 3. Based on the information provided by the petitioner, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate-country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The petitioner calculated the NV and dumping margins for the U.S. prices, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner calculated NVs for stilbenic OBAs in both solution and powder state based on its own consumption rates for producing stilbenic OBAs. *See* Volume III of the Petitions at 5–6, 11–12, and Exhibit III–2. In calculating NV, the petitioner based the quantity of each of the inputs used to manufacture and pack stilbenic OBAs in the PRC based on its own production experience during the POI because it stated that the actual usage rates of the foreign manufacturers of stilbenic OBAs were not reasonably available. *Id.* The petitioner stated, however, that its production process and cost structure is representative of the PRC stilbenic OBAs producers because the production of stilbenic OBAs "involves the same basic technology worldwide." *See* Volume III of the Petitions at 6. The petitioner adjusted its factor inputs to reflect any known differences between the petitioner's production process and the process employed by PRC producers. *See* Volume III of the Petitions at 11–12 and Exhibit III–2. The petitioner also adjusted its factor inputs to reflect higher usage rates for energy and labor in the production of stilbenic OBAs in powder state. *See* Volume III of the Petitions at 12 and Supplement to the PRC AD Petition at Exhibit 31.

The petitioner valued the factors of production based on reasonably available, public surrogate-country data, including Indian import statistics from the Global Trade Atlas (GTA). *See* Volume III of the Petitions at 6–7 and Exhibit III–4 and Supplement to the PRC AD Petition at Exhibit 29. The petitioner excluded from these import statistics imports from countries previously determined by the Department to be NME countries, *i.e.,* it excluded imports from Indonesia, the Republic of Korea, and Thailand, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies, and it excluded imports labeled as being from "unspecified countries." *See* Volume III of the Petitions at 6–7 and Exhibit III–4. In addition, the petitioner made currency conversions, where necessary, based on the POI-average rupee/U.S. dollar exchange rate as reported on the Department's Web site. *See* Volume III of the Petitions at 12 and Exhibit III–13 and Supplement to the PRC AD Petition at Exhibits 30–31. The petitioner determined labor costs using the labor consumption, in hours, derived from its own experience. *See* Volume III of the Petitions at 11 and Supplement to the PRC AD Petition at Exhibits 30–31. The petitioner valued labor costs using the Department's current methodology of calculating an hourly wage rate by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise. *See* Volume III of the Petitions at 7–8 and 10 and Supplement to the PRC AD Petition at 3 and Exhibit 28.

The petitioner determined electricity costs using the electricity consumption, in kilowatt hours, derived from its own experience. *See* Volume III of the Petitions at 11–12 and Supplement to the PRC AD Petition at Exhibits 30–31. The petitioner valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. *See* Volume III of the Petitions at 8–9 and Exhibit III–26.

The petitioner determined natural gas costs using the natural gas consumption derived from its own experience. *See* Volume III of the Petitions at 11–12 and supplement to the PRC AD Petition at Exhibits 30–31. The petitioner valued natural gas using data obtained from the Government of India Ministry of Petroleum and Natural Gas as well as the gas transmission costs from the Gas Authority of India Ltd. *See* Volume III of the Petitions at 9 and Exhibit III–8.

The petitioner determined water costs using the water consumption derived from its own experience. *See* Volume III of the Petitions at 11–12 and Supplement to the PRC AD Petition at Exhibits 30–31. The petitioner valued water based on information that is contemporaneous with the POI from the Maharashtra Industrial Development Corporation. *See* Volume III of the Petitions at 9 and Supplement to the PRC AD Petition at 2 and Exhibit 27.

The petitioner based factory overhead, selling, general and administrative (SG&A), and profit on data from Daikaffil Chemicals India Limited (Daikaffil Chemicals), an Indian producer of stilbenic OBAs, for the fiscal year April 2009 through March 2010. *See* Volume III of the Petitions at 10 and Exhibits III–9 and III–10. The petitioner states that Daikaffil Chemicals was an Indian producer of stilbenic OBAs during fiscal year 2009–2010. *See* Volume III of the Petitions at 10. Therefore, for purposes of the initiation, the Department finds the petitioner's use of Daikaffil Chemicals' financial ratios appropriate. *See* 19 CFR 351.408(c)(4).

**Alleged U.S. Price and NV: Taiwan**

The petitioner calculated two constructed export prices (CEPs) (one for stilbenic OBAs in solution and one in powder state) using a price quote it obtained from a credible source for stilbenic OBAs in the solution state. The petitioner substantiated the U.S. price quote with an affidavit and a declaration from the person who obtained the information. To calculate CEP for stilbenic OBAs in a solution state, the petitioner adjusted the CEP based on the

terms of sale for brokerage and handling incurred in Taiwan and the United States, international freight, U.S. customs duties, U.S inland freight, U.S. indirect selling expenses, and CEP profit. To calculate CEP for stilbenic OBAs in a powder state, the petitioner adjusted the CEP based on the terms of sale for brokerage and handling incurred in Taiwan and the United States, international freight, U.S. customs duties, U.S. inland freight, U.S. indirect selling expenses, further manufacturing (*i.e.,* dilution), and CEP profit. *See* Volume II of the Petitions at 7–19, Exhibits II–18 through II–26, Supplement to the Taiwan AD Petition at Exhibit 28, and Taiwan Initiation Checklist.

With respect to NV, the petitioner calculated NV based on constructed value (CV). The petitioner computed a CV for stilbenic OBAs in the solution state and in the powder state, using the same methodology described below.

Pursuant to section 773(a)(4) of the Act, the petitioner calculated CV using the cost of manufacturing, SG&A expenses, packing expenses, and financial expenses. The petitioner then added the average profit rate based on the most recent financial statements of a company in the same general industry in Taiwan as the producer. *See* Taiwan Initiation Checklist.

The petitioner calculated raw materials, labor, energy, and packing based on its own production experience, adjusted for known differences to manufacture stilbenic OBAs in Taiwan using publically available data. *See* Taiwan Initiation Checklist for details of the calculation of raw materials, labor, energy, and packing. To calculate the factory overhead, SG&A, financial expenses, and the profit rate, the petitioner relied on cost data from a Taiwanese producer of optical brighteners. *See* Volume II of the Petitions at 8–12 and Exhibits II–16 and II–17 and Taiwan Initiation Checklist.

**Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of stilbenic OBAs from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EPs to NVs in accordance with section 773(c) of the Act, the estimated dumping margins for stilbenic OBAs from the PRC range from 80.64 percent to 203.16 percent. *See* the PRC Initiation Checklist. Based on comparisons of CEPs to CVs in accordance with section 773(a)(4) of the Act, the estimated dumping margins for stilbenic OBAs from Taiwan range from 61.79 percent to 109.45 percent. *See* Taiwan Initiation Checklist.

**Initiation of Antidumping Investigations**

Based upon the examination of the Petitions on stilbenic OBAs from the PRC and Taiwan, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of stilbenic OBAs from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

**Targeted Dumping Allegations**

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in AD investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that "withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegation is due no later than 45 days before the scheduled date of the preliminary determinations.

**Respondent Selection**

*The PRC*

Following standard practice in AD investigations involving NME countries, the Department will request quantity and value information from all known exporters and producers identified with complete contact information in Volume III of the Petitions and Supplement to the PRC AD Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 73 FR 10221, 10225 (February 26, 2008), and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China,* 70 FR 21996, 21999 (April 28, 2005). On the date of publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* and a response to the quantity and value questionnaire is due no later than May 11, 2011. Also, the Department will send the quantity and value questionnaire to those PRC companies identified in Volume I of the Petitions at Exhibit I–8.

**Taiwan**

Following standard practice in AD investigations involving market-economy countries, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under HTSUS number 3204.20.80 during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

**Separate Rates**

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market- Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's Web site at *http://ia.ita.doc.gov/policy/bull05–1.pdf.* Based on our experience in

processing the separate-rate applications in previous AD investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in the NME investigation are outlined in detail in the application itself, which will be available on the Department's Web site at *http://ia.ita.doc.gov/ia-highlights-and-news.html* on the date of publication of this initiation notice in the **Federal Register.** The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate-rate status unless they respond to all parts of the questionnaire as mandatory respondents. As explained in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status.

**Use of Combination Rates in an NME Investigation**

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

*See* Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

**Distribution of Copies of the Petitions**

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Government of the PRC and Taiwan authorities. Because of the large number of producers/exporters identified in the Petitions, the Department considers the service of the public version of the Petitions to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC and Taiwan authorities, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

**Preliminary Determinations by the ITC**

The ITC will preliminarily determine no later than May 16, 2011, whether there is a reasonable indication that imports of stilbenic OBAs from the PRC and Taiwan are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

**Notification to Interested Parties**

Interested parties must submit applications for disclosure under APO 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). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD or countervailing duty (CVD) proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix I

**Scope of the Investigations**

The certain stilbenic optical brightening agents ("OBA") covered by these investigations are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.,* all derivatives of 4,4′-bis [1,3,5- triazin-2-yl] amino-2,2′-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic OBAs covered by these investigations include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of final stilbenic OBA products.

Excluded from these investigations are all forms of 4,4′-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl] amino-2,2′-stilbenedisulfonic acid, $C_{40}H_{40}N_{12}O_8S_2$ ("Fluorescent Brightener 71"). These investigations cover the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active certain stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.,* mixtures or blends, whether of certain stilbenic OBAs with each other, or of certain stilbenic OBAs with additives that are not certain stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2011–10188 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–DS–P

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–520–804]**

### Certain Steel Nails From the United Arab Emirates: Initiation of Antidumping Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690, respectively.

**SUPPLEMENTARY INFORMATION:**

## The Petition

On March 31, 2011, the Department of Commerce (the Department) received the petition concerning imports of certain steel nails from the United Arab Emirates (UAE) filed in proper form by Mid Continent Nail Corporation (the petitioner). See Petition for the Imposition of Antidumping Duties: Certain Steel Nails from the United Arab Emirates, dated March 31, 2011 (the Petition). Based on the Department's request concerning certain business proprietary information in the Petition, the petitioner filed additional information on April 4, 2011. On April 6, 2011, the Department issued a request for additional information and clarification of certain areas in the Petition. The petitioner filed a response to the Department's request for information on April 11, 2011 (hereinafter, Supplement to the Petition). The petitioner filed two addenda to the Petition on April 14, 2011, one of which requested a country-wide sales-below-cost investigation (hereinafter, Second Supplement to the Petition).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of certain steel nails from the UAE are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping duty investigation that the petitioner is requesting that the Department initiate (see "Determination of Industry Support for the Petition" section below).

## Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010. See 19 CFR 351.204(b)(1).

## Scope of Investigation

The products covered by this investigation are certain steel nails from the UAE. For a full description of the scope of the investigation, please see the "Scope of the Investigation" in Appendix I of this notice.[1]

## Comments on Scope of Investigation

We reviewed the scope in the Petition to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 10, 2011, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

## Comments on Product Characteristics for Antidumping Questionnaire

The Department requests comments from interested parties regarding the appropriate physical characteristics of certain steel nails to be reported in response to the Department's antidumping questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as general product characteristics and the product-comparison criteria. We find that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain steel nails, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping questionnaire, limited to those issues addressed in the comments, we must receive comments at the above address by May 10, 2011. Additionally, rebuttal comments, limited to those issues addressed in the comments, must be received by May 17, 2011.

## Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A) or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been

[1] The Department is conducting a changed-circumstances review concerning the antidumping duty order on certain steel nails from the People's Republic of China that addresses the exclusion of roofing nails. See *Certain Steel Nails from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review* (signed April 14, 2011).

injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (see section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), aff'd 865 F.2d 240 (Fed. Cir. 1989), *cert.* denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that certain steel nails constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic-like-product analysis in this case, see Antidumping Duty Investigation Initiation Checklist: Certain Steel Nails from the United Arab Emirates (Initiation Checklist) at Attachment II, Analysis of Industry Support for the Petition Covering Certain Steel Nails, on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry-support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, the petitioner provided its production volume of the domestic like product in 2010 as well as the 2010 production volume of companies that support the Petition. The petitioner compared the total production of itself and supporters of the Petition to the estimated total production of the domestic like product for the entire domestic industry. See Volume I of the Petition at 5 and Exhibits IN–1 and IN–5, and Supplement to the Petition at 4–7. The petitioner estimated 2010 production of the domestic like product by non-petitioning companies based on its knowledge of the certain steel nail production capabilities and their relative proportion of total domestic sales. See Volume I of the Petition at Exhibit IN–5 and Supplement to the Petition at 5–6. We have relied upon data the petitioner provided for purposes of measuring industry support. For further discussion, see Initiation Checklist at Attachment II.

On April 5, 2011, we received an industry support challenge from an importer of certain steel nails from the UAE. The petitioner responded to this submission in its Supplement to the Petition. See Supplement to the Petition at 6 and Initiation Checklist at Attachment II. The Department's review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). See section 732(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product. See Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See *id.*

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping duty investigation that it is requesting the Department to initiate. See *id.*

**Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than fair value. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production, reduced shipments, reduced capacity and capacity utilization, underselling and price depression or suppression, reduced employment, decline in financial performance, lost sales and revenue, and increase in import volume and penetration. See Volume I of the Petition at 14–41, Exhibits IN–1, IN–4–13, and IN–16–20, and Supplement to the Petition at 8. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are supported by adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petition Covering Certain Steel Nails from the United Arab Emirates.

**Allegations of Sales at Less Than Fair Value**

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of certain steel nails from the UAE. The sources of data for the deductions and adjustments relating to the U.S. prices and cost of production are also discussed in the initiation checklist. See Initiation Checklist.

**Export Price**

The petitioner based U.S. prices on price quotes from the U.S. distributors/trading companies for sale offers of certain steel nails in the United States produced in and exported from the UAE by Dubai Wire FZE (DWE) and Millennium Steel and Wire (MSW), the two largest UAE producers/exporters of certain steel nails. See Initiation Checklist at 6; see also Volume I of the

Petition at 42–46, Exhibit IN–17, and Volume II of the Petition at Exhibits AD–1 and AD–2. The petitioner substantiated the U.S. prices with declarations from persons who obtained and received the information. See Volume II of the Petition at Exhibits AD–1 and Supplement to the Petition at Exhibit Supp. 5. The petitioner asserts that the quoted sale offers are typical of sales of certain steel nails produced in the UAE and sold in the United States. *Id.* With respect to all price quotes, the petitioner was able to obtain product descriptions, prices per box, and the specific sale, payment, and delivery terms. The petitioner made adjustments for foreign inland freight, foreign port expenses, ocean freight, U.S. port expenses, U.S. harbor maintenance tax and merchandise processing fees, U.S. inland freight, the distributor's markup, and early-payment discount. See Initiation Checklist at 6–8; see also Volume I of the Petition at 46–54, Exhibits AD–1, AD–2, AD–5 through AD–13, and Supplement to the Petition at 8–15, Exhibits Supp. 5–9. See Initiation Checklist for additional details.

**Normal Value**

*DWE*

The petitioner provided information that the UAE home market may be viable with respect to DWE. See Initiation Checklist at 9; see also Volume I of the Petition at 55 and Volume II of the Petition at Exhibit AD–6. Through market research, the petitioner obtained a quoted transaction price for certain steel nails produced by DWE and sold or offered for sale to customers in the UAE. *Id.* The petitioner substantiated the home market price with a declaration from the person who obtained the information. *Id.* The petitioner asserts that, aside from dimensions, the product subject to the quoted transaction price is substantially identical to subject merchandise sold by DWE in the United States. See Initiation Checklist at 9 and Volume I of the Petition at 56. The petitioner made an adjustment to the starting price for foreign inland freight. See Initiation Checklist at 9 and Volume II of the Petition at Exhibits AD–9 and AD–15. Because the quoted U.S. prices for nails produced and/or exported by DWE were for a product having dimensions different from the dimensions of the product sold or offered for sale as reflected in the quoted UAE transaction, the petitioner made a downward difference-in-merchandise adjustment to normal value pursuant to 19 CFR 351.411. See Initiation Checklist at 9; see also Volume I of the Petition at 68–69, Volume II of the Petition at Exhibits AD–4, AD–24, and AD–25, and Supplement to the Petition at 14–15, Exhibits Supp. 7 and Supp. 10.

The petitioner also made a circumstances-of-sale adjustment to normal value for U.S. credit expenses pursuant to 19 CFR 351.410(c). See Initiation Checklist at 9; see also Volume I of the Petition at 53, Volume II of the Petition at Exhibits AD–2, AD–14, and Supplement to the Petition at 13–14 and Exhibits Supp. 6, Supp. 7, and Supp. 9.

**Sales-Below-Cost Allegation**

The petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of certain steel nails from the UAE were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. See Second Supplement to the Petition.[2] The Statement of Administrative Action (SAA) submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements Act states that an allegation of sales below COP need not be specific to individual exporters or producers. See SAA, H.R. Doc. No. 103–316 at 833 (1994). The SAA states, at 833, that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department must have "reasonable grounds to believe or suspect" that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. *Id.*

[2] In the Second Supplement to the Petition, the petitioner alleged that producers of steel nails in the UAE sold subject merchandise in their home market at less than the COP, consistent with section 773(b) of the Act. In the Second Supplement to the Petition at 5, the petitioner demonstrated that DWE's price was below cost by comparing the home-market price for DWE to constructed value (CV) rather than to COP (according to section 773(e) of the Act constructed value consists of COP plus an amount for profit). We compared the home-market price to the revised COP and found that the price was below the COP. See Initiation Checklist at Attachment V.

**Cost of Production**

Pursuant to section 773(b)(3) of the Act, the petitioner calculated COP based on costs of manufacturing (COM), selling, general, and administrative expenses (SG&A), and packing expenses. The petitioner did not include an amount for financial expense. See Initiation Checklist at 9–11.

The petitioner calculated raw materials, labor, energy, and packing based on the production experience of a U.S. producer of certain steel nails, adjusted for known differences to manufacture certain steel nails in the UAE using publically available data. See Initiation Checklist for details of the calculation of raw materials, labor, energy, and packing. To calculate the factory overhead and SG&A, the petitioner relied on the cost data from a steel-fabricating company in the UAE. See Initiation Checklist at 9–11. We adjusted the petitioner's calculation of COP in order to avoid the double counting of energy expenses. See Initiation Checklist.

Based upon a comparison of the net price of the foreign like product in the comparison market to the COP calculated for the product, we find reasonable grounds to believe or suspect that sales of the foreign like product in the comparison market were made at prices below the COP within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

**Normal Value Based on Constructed Value**

Because the petitioner alleged sales below cost, and pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, we calculated normal value based on CV. We calculated CV using the same average COM, SG&A, financial and packing figures used to compute the COP. We added the average profit rate based on the most recent financial statements of a company in the same general industry in the UAE as the producers of certain steel nails. See Initiation Checklist at 9–11. We also made a circumstance-of-sale adjustment to normal value for U.S. credit expenses pursuant to 19 CFR 351.410(c). See Initiation Checklist at 7–8, 12–13; see Volume I of the Petition at 53 and Volume II of the Petition at Exhibits AD–2, AD–14; see Supplement to the Petition at 13–14 and Exhibits Supp. 6, Supp. 7, and Supp. 9.

*MSW*

The petitioner asserts that it was unable to obtain home market pricing

data for products that were identical or similar to the products MSW offered for sale to the United States. Further, the petitioner provided information indicating that MSW may not have a viable home market or third-country market. See Initiation Checklist at 9; see also Volume I of the Petition at 58 and Volume II of the Petition at AD–6. Because the petitioner has alleged that all sales to countries other than the United States constitute less than the five-percent threshold provided for in section 773(a)(1)(B)(ii)(II) of the Act, the petitioner based normal value on CV for MSW. *Id.* See Initiation Checklist for additional details.

**Normal Value Based on Constructed Value**

Pursuant to section 773(e) of the Act, the petitioner calculated CV based on COM, SG&A, packing expenses, and profit using the same methodology as described with respect to DWE. The petitioner also made a circumstance-of-sale adjustment to normal value for U.S. credit expenses pursuant to 19 CFR 351.410(c). See Initiation Checklist at 7–8, 12–13; see also Volume I of the Petition at 53, Volume II of the Petition at Exhibits AD–2, AD–14, and Supplement to the Petition at 13–14 and Exhibits Supp. 6, Supp. 7, and Supp. 9.

**Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of certain steel nails are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of respective net export prices and normal value calculated in accordance with section 773(a)(1) of the Act, the estimated dumping margins for certain steel nails from the UAE range from 61.54 to 81.82 percent for DWE. Based on a comparison of respective net export prices and normal value based on CV calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margins for certain steel nails from the UAE range from 152.37 to 184.41 percent for DWE and from 150.13 to 154.26 percent for MSW. See Initiation Checklist at 14 and Attachments VI and VII.

**Initiation of Antidumping Investigation**

Based upon the examination of the Petition on certain steel nails from UAE, the Department finds that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of certain steel nails from UAE are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

**Targeted Dumping Allegations**

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5). See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008). The Department stated that "{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." See *id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the preliminary determination.

**Respondent Selection**

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the Harmonized Tariff Schedule of the United States (HTSUS) numbers 7317.00.55, 7317.00.65, and 7317.00.75, the three HTSUS categories most specific to the subject merchandise, for entries made during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's website at *http://ia.ita.doc.gov/apo.*

**Distribution of Copies of the Petitions**

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the UAE. We will attempt to provide a copy of the public version of the Petition to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

**Preliminary Determinations by the ITC**

The ITC will preliminarily determine, no later than May 16, 2011, whether there is a reasonable indication that imports of certain steel nails from the UAE are materially injuring, or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

**Notification to Interested Parties**

Interested parties must submit applications for disclosure under APO 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). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an antidumping or countervailing duty proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping or countervailing duty proceeding initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting

party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix I—Scope of the Investigation

The merchandise covered by this investigation includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this investigation are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

Certain steel nails subject to this investigation are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65, and 7317.00.75.

Excluded from the scope of this investigation are steel nails specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails, whether collated or in bulk, and whether or not galvanized.

Also excluded from the scope of this investigation are the following products:

- Non-collated (*i.e.,* hand-drive or bulk), two-piece steel nails having plastic or steel washers ("caps") already assembled to the nail, having a bright or galvanized finish, a ring, fluted or spiral shank, an actual length of 0.500″ to 8″, inclusive; an actual shank diameter of 0.1015″ to 0.166″, inclusive; and an actual washer or cap diameter of 0.900″ to 1.10″, inclusive;
- Non-collated (*i.e.,* hand-drive or bulk), steel nails having a bright or galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500″ to 4″, inclusive; an actual shank diameter of 0.1015″ to 0.166″, inclusive; and an actual head diameter of 0.3375″ to 0.500″, inclusive, and whose packaging and packaging marking are clearly and prominently labeled "Roofing" or "Roof" nails;
- Wire collated steel nails, in coils, having a galvanized finish, a smooth, barbed or ringed shank, an actual length of 0.500″ to 1.75″, inclusive; an actual shank diameter of 0.116″ to 0.166″, inclusive; and an actual head diameter of 0.3375″ to 0.500″, inclusive, and whose packaging and packaging marking are clearly and prominently labeled "Roofing" or "Roof" nails;
- Non-collated (*i.e.,* hand-drive or bulk), steel nails having a convex head (commonly known as an umbrella head), a smooth or spiral shank, a galvanized finish, an actual length of 1.75″ to 3″, inclusive; an actual shank diameter of 0.131″ to 0.152″, inclusive; and an actual head diameter of 0.450″ to 0.813″, inclusive, and whose packaging and packaging marking are clearly and prominently labeled "Roofing" or "Roof" nails;
- Corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side;
- Thumb tacks, which are currently classified under HTSUS 7317.00.10.00;
- Fasteners suitable for use in powder-actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30;
- Certain steel nails that are equal to or less than 0.0720 inches in shank diameter, round or rectangular in cross section, between 0.375 inches and 2.5 inches in length, and that are collated with adhesive or polyester film tape backed with a heat seal adhesive; and
- Fasteners having a case hardness greater than or equal to 50 HRC, a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. 2011–10187 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–976]**

### Galvanized Steel Wire From the People's Republic of China: Initiation of Countervailing Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Czajkowski or David Lindgren, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street, and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1395 or (202) 482–3870, respectively.

**SUPPLEMENTARY INFORMATION:**

## The Petition

On March 31, 2011, the Department of Commerce (the Department) received a countervailing duty (CVD) petition concerning imports of galvanized steel wire from the People's Republic of China (PRC) filed in proper form by Davis Wire Corporation, Johnstown Wire Technologies, Inc., Mid-South Wire Company, Inc., National Standard, LLC, and Oklahoma Steel & Wire Company, Inc. (Petitioners), domestic producers of galvanized steel wire. See "Petition for the Imposition of Countervailing Duties on Galvanized Steel Wire from the People's Republic of China" (CVD Petition). On April 6, 2011, the Department requested additional information and clarification of certain areas of the CVD Petition involving the subsidy allegations. On the same day we issued a separate set of requests for information regarding the scope, industry support, and injury sections of the CVD Petition and the accompanying antidumping petitions for Mexico and the PRC. Petitioners filed timely, separate responses to these questionnaires on April 11, 2011 (First Supplement to the CVD Petition and Supplement to the AD/CVD Petitions, respectively). On April 12, 2011, the Department issued a second set of questions regarding general issues, injury information and antidumping-specific topics. On April 14, 2011, Petitioners filed timely responses to the April 12, 2011 questionnaires (Second Supplement to the AD/CVD Petitions). On April 12, 2011, the Department requested additional information regarding the CVD Petition. See Memo to the File from Mark E. Hoadley, Program Manager, AD/CVD Operations,

Office 6, Import Administration "Telephone Conversation with Counsel for Petitioners: Countervailing Duty Investigation on Galvanized Steel Wire from the People's Republic of China," dated April 12, 2011. On April 15, 2011, Petitioners filed timey responses to the April 12, 2011 request (Second Supplement to the CVD Petition). In addition Petitioners provided the Department with an additional required certification on April 15, 2011. See Certification Letter filed April 15, 2011.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), Petitioners allege that producers/exporters of galvanized steel wire in the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed the CVD Petition on behalf of the domestic industry because they are an interested party as defined in section 771(9)(C) of the Act and the Petitioners have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate (see "Determination of Industry Support for the Petition" below).

**Period of Investigation**

The period of investigation (POI) is calendar year 2010, i.e., January 1, 2010, through December 31, 2010. See 19 CFR 351.204(b)(2).

**Scope of Investigation**

The products covered by this investigation are galvanized steel wire from the PRC. For a full description of the scope of the investigation, please see the "Scope of the Investigation," Appendix to this notice.

**Comments on Scope of Investigation**

During our review of the CVD Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 10, 2011, twenty calendar days from the signature date of this notice. All comments must be filed on the records of the China and Mexico antidumping duty investigations as well as the China countervailing duty investigation. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

**Consultations**

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department held consultations with the Government of the PRC (GOC) with respect to the CVD Petition on April 14, 2011. See Memorandum to the File, dated April 15, 2011, "Consultations with Officials from the Government of the People's Republic of China on the Countervailing Duty Petitions regarding Steel Wheels and Galvanized Steel Wire" a public document on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

**Determination of Industry Support for the Petition**

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that galvanized steel wire constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see "Countervailing Duty Investigation Initiation Checklist: Galvanized Steel Wire from the People's Republic of China" (CVD Initiation Checklist), at Attachment II, "Analysis of Industry Support for the Petitions Covering Galvanized Steel Wire from the People's Republic of China," on file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

In determining whether Petitioners have standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the CVD Petition with reference to the domestic like product as defined in the "Scope of the Investigation" Appendix to this notice. To establish industry support, Petitioners provided their own 2010 production of the domestic like

product, and compared this to the estimated total production of the domestic like product for the entire domestic industry. See Volume I of the Petitions, at I–3 through I–5, and Exhibits I–1 through I–5; Supplement to the AD/CVD Petitions, dated April 11, 2011, at 1, 7 and Exhibit Supp-I–7; Second Supplement to the AD/CVD Petitions, dated April 14, 2011, at 2, and Exhibit 2; and Second Revised Exhibit I–1; *see also* CVD Initiation Checklist at Attachment II.

On April 14, 2011, we received an industry support challenge from a Mexican producer of galvanized steel wire and its U.S. affiliate. See Letter from Deacero, titled "Galvanized Steel Wire from Mexico—Comments on Industry Support," dated April 14, 2011.[1] This submission was placed on the record of the CVD Petition on April 18, 2011. See Letter from Petitioners, titled "Petitioners' Response to Question about U.S. industry," dated April 18, 2011. Petitioner responded to this submission on April 18, 2011. Our review of the data provided in the CVD Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. See CVD Initiation Checklist at Attachment II. First, the CVD Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling). See section 702(c)(4)(D) of the Act; see *also* CVD Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the CVD Petition account for at least 25 percent of the total production of the domestic like product. See CVD Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the CVD Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the CVD Petition. Accordingly, the Department determines that the CVD Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. See CVD Initiation Checklist at Attachment II.

The Department finds that Petitioners filed the CVD Petition on behalf of the domestic industry because they are an interested party as defined in sections 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the CVD investigation that they are requesting the Department initiate. See CVD Initiation Checklist at Attachment II.

**Injury Test**

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

**Allegations and Evidence of Material Injury and Causation**

Petitioners allege that imports of galvanized steel wire from the PRC are benefitting from countervailable subsidies and that such imports are causing, or threatening to cause, material injury to the domestic industry producing galvanized steel wire. In addition, Petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales and revenues, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See CVD Initiation Checklist at Attachment III.

**Initiation of Countervailing Duty Investigation**

Section 702(b)(1) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a CVD petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

The Department has examined the CVD Petition on galvanized steel wire from the PRC and finds that it complies with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating a CVD investigation to determine whether producers/exporters of galvanized steel wire in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see CVD Initiation Checklist.

We are including in our investigation the following programs alleged in the CVD Petition to provide countervailable subsidies to producers/exporters of the subject merchandise.

*A. Preferential Loans and Interest Rates*

1. Policy Loans to the Galvanized Steel Wire Industry
2. Preferential Loans for Key Projects and Technologies
3. Preferential Loans and Directed Credit
4. Preferential Lending to GSW Producers and Exporters Classified as "Honorable Enterprises"
5. Loans and Interest Subsidies Provided Pursuant to the Northeast Revitalization Program

*B. Government Provision of Inputs for Less than Adequate Remuneration (LTAR)*

1. Provision of Wire Rod for LTAR
2. Provision of Zinc for LTAR
3. Provision of Land Use Rights for LTAR
   a. Provision of Land Use Rights for LTAR within the Jinzhou District within the City of Dalian
   b. Provision of Land Use Rights for LTAR to Enterprises within the Zhaoqing High-Tech Industry Development Zone in Guangdong Province
   c. Provision of Land Use Rights for LTAR to Enterprises within the South Sanshui Science and Technology Industrial Park of Foshan City
4. Provision of Electricity for LTAR

*C. Income and Other Direct Taxes*

1. Income Tax Credits for Domestically-Owned Companies Purchasing Domestically-Produced Equipment
2. Income Tax Exemption for Investment in Domestic Technological Renovation

[1] On April 18, 2011, the Department placed Deacero's filing on the records of the AD and CVD petitions concerning the PRC. See Memorandum to the File from Norbert Gannon, Office of Policy, entitled, Petitions for the Imposition of Antidumping Duties on Imports of Galvanized Steel Wire from the People's Republic of China (the PRC) and Mexico and Countervailing Duties on Imports of Galvanized Steel Wire from the PRC—Deacero S.A. de C.V.'s April 14, 2011, Letter to the Department of Commerce.

3. Accelerated Depreciation for Enterprises Located in the Northeast Region
4. Forgiveness of Tax Arrears for Enterprises in the Old Industrial Bases of Northeast China
5. Income Tax Exemption for Investors in Designated Geographical Regions within Liaoning Province

*D. Indirect Tax and Tariff Exemption Programs*

1. VAT Deduction on Fixed Assets
2. Export Subsidies Characterized as "VAT Rebates"
3. Import Tariff and VAT Exemptions for Foreign Invested Enterprises and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries
4. Reduction in or Exemption from Fixed Assets Investment Orientation Regulatory Tax

*E. Grant Programs*

1. "Five Points, One Line" Program of Liaoning Province
2. Provincial Export Interest Subsidies
3. State Key Technology Project Fund
4. Export Assistance Grants
5. Subsidies for Development of Famous Export Brands and China World Top Brands
6. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands
7. Zhejiang Province Program to Rebate Antidumping Legal Fees
8. Technology to Improve Trade Research and Development Fund of Jiangsu Province
9. Outstanding Growth Private Enterprise and Small and Medium-Sized Enterprises Development in Jiangyin Fund of Jiangyin City
10. Grants for Programs Under the 2007 Science and Technology Development Plan in Shandong Province
11. Special Funds for Encouraging Foreign Economic and Trade Development and for Drawing Significant Foreign Investment Projects in Shandong Province

*F. Preferential Tax Subsidies for FIEs*

1. "Two Free, Three Half" Tax Exemptions for "Productive" FIEs
2. Income Tax Exemption Program for Export-Oriented FIEs
3. Local Income Tax Exemption and Reduction Programs for "Productive" FIEs
4. Preferential Tax Programs for FIEs Recognized as High or New Technology Enterprises
5. Income Tax Subsidies for FIEs Based on Geographic Location
6. VAT Refunds for FIEs Purchasing Domestically-Produced Equipment
7. Income Tax Credits for FIEs Purchasing Domestically-Produced Equipment
8. Exemption from City Construction Tax and Education Fee for FIEs

For a description of each of these programs and a full discussion of the Department's decision to initiate an investigation of these programs, see CVD Initiation Checklist.

We are not including in our investigation the following programs alleged to benefit producers/exporters of the subject merchandise in the PRC.

1. Export Loans from Policy Banks and State-Owned Commercial Banks (SOCBs)
2. Government Restraints on Exports of Raw Materials: Wire Rod
3. Government Restraints on Exports of Raw Materials: Zinc
4. Tax Reduction for Enterprises Making Little Profit
5. Provincial Fund for Fiscal and Technological Innovation
6. International Market Exploration Fund (SME Fund)
7. Funds for Water Treatment and Pollution Control Projects for the Three Rivers and Three Lakes in Shandong Province
8. Undervaluation of Chinese Currency

For further information explaining why the Department is not initiating an investigation of these programs, see CVD Initiation Checklist.

**Respondent Selection**

For this investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of the announcement of the initiation of this investigation. Interested parties may submit comments regarding the CBP data and respondent selection within seven calendar days of publication of this notice. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at *http://ia.ita.doc.gov/apo.*

**Distribution of Copies of the Petition**

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public versions of the CVD Petition and amendments thereto have been provided to the GOC. Because of the particularly large number of producers/exporters identified in the CVD Petition, the Department considers the service of the public version of the petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

**Preliminary Determination by the ITC**

The ITC will preliminarily determine, within 45 days after the date on which the CVD Petition was filed, whether there is a reasonable indication that imports of allegedly subsidized galvanized steel wire from the PRC materially injure, or threaten material injury to, a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated. See section 703(a)(1) of the Act. Otherwise, the investigation will proceed according to statutory and regulatory time limits.

**Notification to Interested Parties**

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). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule, 76 FR 7491* (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting

party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix—Scope of the Investigation

The scope of the investigation covers galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of solid, circular cross section with an actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating).

Steel products to be included in the scope of the investigation, regardless of Harmonized Tariff Schedule of the United States ("HTSUS") definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.02 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

The products subject to the investigation are currently classified in subheadings 7217.20.30 and 7217.20.45 of the HTSUS which cover galvanized wire of all diameters and all carbon content. Galvanized wire is reported under statistical reporting numbers 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, and 7217.20.4580. These products may also enter under HTSUS subheadings 7229.20.0015, 7229.90.5008, 7229.90.5016, 7229.90.5031, and 7229.90.5051. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

[FR Doc. 2011–10211 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Civil Nuclear Trade Advisory Committee Public Meeting

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a meeting of the Civil Nuclear Trade Advisory Committee (CINTAC).

**DATES:** The meeting is scheduled for Thursday, May 12, 2011, at 10 a.m. Eastern Daylight Time (EDT).

**ADDRESSES:** The meeting will be held in Room 4830, U.S. Department of Commerce, Herbert Clark Hoover Building, 1401 Constitution Ave., NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah Lopp, Office of Energy & Environmental Industries, International Trade Administration, Room 4053, 1401 Constitution Ave., NW., Washington, DC 20230. (Phone: 202–482–3851; Fax: 202–482–5665; e-mail: *sarah.lopp@trade.gov*).

**SUPPLEMENTARY INFORMATION:**

*Background:* The CINTAC was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.), in response to an identified need for consensus advice from U.S. industry to the U.S. Government regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable United States regulations, including advice on how U.S. civil nuclear goods and services export policies, programs, and activities will affect the U.S. civil nuclear industry's competitiveness and ability to participate in the international market.

*Topics to be considered:* The agenda for the May 12, 2011 CINTAC meeting is as follows:

### Public Session

1. Opening remarks.
2. Trade Promotion Activities Update, including U.S. industry program at the International Atomic Energy Agency.
3. Public comment period.

### Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. App. §§ (10)(a)1 and 10(a)(3).

The open session will be disabled-accessible. Public seating is limited and available on a first-come, first-served basis. Members of the public wishing to attend the meeting must notify Ms. Sarah Lopp at the contact information below by 5 p.m. EDT on Friday, May 6, 2011 in order to pre-register for clearance into the building. Please specify any requests for reasonable accommodation at least five business days in advance of the meeting. Last minute requests will be accepted, but may be impossible to fill.

A limited amount of time will be available for pertinent brief oral comments from members of the public attending the meeting. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of 30 minutes. Individuals wishing to reserve speaking time during the meeting must contact Ms. Lopp and submit a brief statement of the general nature of the comments and the name and address of the proposed participant by 5 p.m. EDT on Friday, May 6, 2011. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration (ITA) may conduct a lottery to determine the speakers. Speakers are requested to bring at least 20 copies of their oral comments for distribution to the participants and public at the meeting.

Any member of the public may submit pertinent written comments concerning the CINTAC's affairs at any time before and after the meeting. Comments may be submitted to the Civil Nuclear Trade Advisory Committee, Office of Energy & Environmental Industries, Room 4053, 1401 Constitution Ave., NW., Washington, DC 20230. For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5 p.m. EDT on Friday, May 6, 2011. Comments received after that date will be distributed to the members but may not be considered at the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 20, 2011, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App. § (10)(d)), that the portion of the meeting dealing with matters the disclosure of which would be likely to frustrate significantly implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt

from the provisions relating to public meetings found in 5 U.S.C. App. §§ (10)(a)(1) and 10(a)(3). The portion of the meeting dealing with matters requiring disclosure of trade secrets and commercial or financial information as described in 5 U.S.C. 552b(c)(4) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. App. §§ (10)(a)(1) and 10(a) (3). The remaining portions of the meeting will be open to the public.

Copies of CINTAC meeting minutes will be available within 90 days of the meeting.

**Man K. Cho,**

*Acting Director, Office of Energy and Environmental Industries.*

[FR Doc. 2011–10149 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–811]**

### Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 3, 2011, the Department of Commerce ("the Department") received a letter from the Ministry of Economic Development ("MED") of the Russian Federation ("Russia") dated February 22, 2011, that had been sent to the United States Embassy in Moscow for transmittal to the Department concerning the Agreement Suspending the Antidumping Duty ("AD") Investigation on Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation ("the Agreement"). In that letter, the MED stated that it was withdrawing from the Agreement. In accordance with Section X.C. of the Agreement, termination of the Agreement shall be effective 60 days after notice of termination of the Agreement is given to the Department. Pursuant to section 734(g) of the Tariff Act of 1930, as amended ("the Act"), the underlying investigation was continued following the signature of the Agreement, resulting in an affirmative determination of dumping resulting in material injury to a domestic industry. Therefore, the Department is terminating the Agreement and issuing an AD order, effective May 2, 2011 (60 days from when the Department received notice of MED's request for termination). The Department also will direct suspension of liquidation to begin on that date.

**DATES:** *Effective Date:* May 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Judith Wey Rudman or Julie Santoboni, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0192 or (202) 482–3063, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On August 12, 1999, the Department initiated an AD investigation under section 732 of the Act to determine whether imports of solid fertilizer grade ammonium nitrate ("ammonium nitrate") from Russia were being, or were likely to be, sold in the United States at less than fair value. *See Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation,* 64 FR 45236 (August 19, 1999). On September 15, 1999, the International Trade Commission ("ITC") published its affirmative preliminary injury determination. (*See Certain Ammonium Nitrate from Russia,* Investigation No. 731–TA–856 (Preliminary), 64 FR 50103 (September 15, 1999)). On January 7, 2000, the Department published its preliminary determination that ammonium nitrate was being, or was likely to be, sold in the United States at less than fair value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation,* 65 FR 1139 (January 7, 2000).

The Department suspended the AD investigation on ammonium nitrate from Russia, effective May 19, 2000 (*See Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation,* 65 FR 37759 (June 16, 2000)). The basis for this action was an agreement between the Department and the Ministry of Trade of the Russian Federation ("MOT") (the MOT was the predecessor to the MED) accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports were sold at or above the agreed reference price. Thereafter, pursuant to a request by the petitioner, the Committee for Fair Ammonium Nitrate Trade ("COFANT"), the Department completed its investigation and published its final determination of sales at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 42669 (July 11, 2000) ("*Final Determination*"). In its *Final Determination,* the Department calculated weighted-average dumping margins of 253.98 percent for Nevinnomyssky Azot, a respondent company in the investigation, and as the Russia-wide rate. The ITC published its final affirmative injury determination on August 21, 2000 (*See Certain Ammonium Nitrate from Russia,* Investigation No. 731–TA–856 (Final), 65 FR 50179 (August 21, 2000) ("*ITC Final Injury Determination*")).

On March 31 and April 1, 2005, respectively, the ITC instituted, and the Department initiated, a five-year sunset review of the suspended AD investigation on ammonium nitrate from Russia. The Department concluded that termination of the suspended AD investigation would likely lead to continuation or recurrence of dumping and the ITC concluded that termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Final Results of Five-Year Sunset Review of Suspended Antidumping Duty Investigation on Ammonium Nitrate from the Russian Federation,* 71 FR 11177 (March 6, 2006) and *Ammonium Nitrate from Russia,* Investigation No. 731–TA–856 (Review), 71 FR 16177 (March 30, 2006), respectively. On March 1, 2011, the Department initiated and the ITC instituted a (second) five-year sunset review of the ammonium nitrate suspended investigation. *See Notice of Initiation of Five-Year ("Sunset") Reviews,* 76 FR 11202 (March 1, 2011) and *Ammonium Nitrate from Russia,* Investigation No. 731–TA–856 (Second Review), 76 FR 11273 (March 1, 2011).

On March 3, 2011, the Department received a letter from MED dated February 22, 2011, that had been sent to the United States Embassy in Moscow for transmittal to the Department concerning the Agreement. In that letter, the MED stated that it was withdrawing from the Agreement, effective 60 days after notice of termination.

#### Scope of the Order

The products covered by the order include solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating,

and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise within the scope is dispositive.

**Termination of Suspended Investigation and Issuance of AD Order**

Article X.C of the Agreement states:

MOT or DOC may terminate this Agreement at any time upon written notice to the other party. Termination shall be effective 60 days after such notice is given. Upon termination of this Agreement, the provisions of U.S. antidumping law and regulations shall apply.

As noted above, the underlying investigation in this proceeding was continued pursuant to section 734(g) of the Act, following the acceptance of the Agreement. The Department made a final affirmative AD determination, and the ITC found material injury. *See Final Determination* and *ITC Final Injury Determination.* Therefore, in accordance with section 735(c) of the Act, the Department will issue an antidumping duty order and instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of entries of subject merchandise, effective May 2, 2011, which is 60 days from the date the Department received the letter from MED stating its withdrawal from the Agreement.

**Antidumping Duty Order**

In accordance with section 736(a)(1) of the Act, the Department will direct CBP to assess, beginning on May 2, 2011, an antidumping duty equal to the weighted-average AD margins listed below.

We will instruct CBP to require a cash deposit for each entry equal to the AD weighted-average margin rates found in the Department's July 11, 2000, *Final Determination,* as listed below. These suspension-of-liquidation instructions will remain in effect until further notice. The "Russia-wide" rate applies to all producers and exporters of subject merchandise not specifically listed. The final AD ad valorem rates are as follows:

| Manufacturer/exporter | Weighted-average margin (percent) |
|---|---|
| JSC Nevinnomyssky Azot .... | 253.98 |
| Russia-wide ..... | 253.98 |

This notice constitutes the AD order with respect to ammonium nitrate from Russia, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, room 7046 of the main Commerce building, for copies of an updated list of AD orders currently in effect. This order is issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: April 21, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2011–10176 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XA356**

### Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

**ACTION:** Notice; issuance of letters of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued six one-year Letters of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

**DATES:** These authorizations are effective from May 1, 2011 through April 30, 2012, and June 1, 2011, through May 31, 2012.

**ADDRESSES:** The application and LOAs are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3235 or by telephoning the contact listed here (*see* **FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–713–2289.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term "take" means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-

finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*). NMFS received requests for LOAs from Merit Energy Company (Merit), Northstar Interests, LLC. (Northstar Interests), Northstar Offshore Energy Partners, LLC. (Northstar Offshore), Ridgelake Energy, Inc. (Ridgelake), Rosetta Resources Offshore, LLC. (Rosetta), and Sojitz Energy Venture, Inc. (Sojitz) for activities covered by the EROS regulations.

**Reporting**

NMFS regulations require timely receipt of reports for activities conducted under the previously issued LOA and a determination that the required mitigation, monitoring, and reporting were undertaken. NMFS Galveston Laboratory's Platform Removal Observer Program (PROP) has provided reports for Merit Energy Company's (Merit) removal of offshore structures during 2010. While Merit did not have a LOA in 2010 to 2011 or previous years, the energy company used the explosives company, Demex International, Inc., which was issued an LOA for 2010 to 2011, and renewed their LOA again for 2011 to 2012. Northstar Interests, Northstar Offshore, Ridgelake, Rosetta, and Sojitz have not conducted any EROS operations to date. NMFS PROP observers reported the following during Merit's EROS operations in 2010 to 2011:

| Company | Structure | Dates | Marine mammal sightings (Individuals) | Biological impacts observed to marine mammals |
|---|---|---|---|---|
| Merit | High Island Area, Block 138, Platform A. | May 23 to 28, 2010 | Bottlenose dolphins (150) | None. |
| Merit | High Island Area, Block 39, Caisson #9. | May 23 to 24, 2010 | Bottlenose dolphins (1) | None. |
| Merit | High Island Area, Block 39, Platform B. | May 25 to 26, 2010 | None | None. |
| Merit | High Island Area, Block 39, Caisson #10. | May 27 to 30, 2010 | Bottlenose dolphins (4) | None. |
| Merit | Vermilion Area, Block 28, Platform A. | May 31 to June 4, 2010 | Bottlenose dolphins (33) | None. |
| Merit | High Island Area, Block 38, Caisson 1. | June 5 to 9, 2010 | Bottlenose dolphins (103) | None. |
| Merit | Matagorda Island Area, Block 682, Platform A. | June 6 to 14, 2010 | Bottlenose dolphins (16) | None. |
| Merit | High Island Area, Block 39, Platform A. | June 16, 2010 | Bottlenose dolphins (10) | None. |
| Merit | Matagorda Island Area, Block 672, Platform A. | June 15 to 20, 2010 | Bottlenose dolphins (13) | None. |
| Merit | Mustang Island Area, Block A22, Platform A. | June 21 to 27 and July 3 to 9, 2010. | Bottlenose dolphins (4) and Spotted dolphins (8). | None. |
| Merit | Mustang Island Area, Block 785, Platform A. | July 10 to 18, 2010 | Unidentified dolphins (15) | None. |
| Merit | Matagorda Island Area, Block 704, Platform B. | July 19 to 25, 2010 | Bottlenose dolphins (3) and Unidentified dolphins (29). | None. |

Pursuant to these regulations, NMFS has issued an LOA to Merit, Northstar Interests, Northstar Offshore, Ridgelake, Rosetta, and Sojitz. Issuance of the LOAs is based on a finding made in the preamble to the final rule that the total taking by these activities (with monitoring, mitigation, and reporting measures) will result in no more than a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: April 20, 2011.

**James H. Lecky,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2011–10177 Filed 4–26–11; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XA395**

### Marine Mammals and Endangered Species; File Nos. 15415 and 14622

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

**ACTION:** Notice; issuance of permits.

**SUMMARY:** Notice is hereby given that NMFS has issued two permits to conduct research on marine mammals or sea turtles. See **SUPPLEMENTARY INFORMATION** for additional information regarding permittees.

**ADDRESSES:** The permits and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9328; fax (978)281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

**FOR FURTHER INFORMATION CONTACT:** The following Amy Hapeman or Kristy Beard at (301)713–2289.

**SUPPLEMENTARY INFORMATION:** On December 10, 2010, notice was published in the **Federal Register** (75 FR 76956) that a request for a permit to conduct research on North Atlantic right whales (*Eubalaena glacialis*) had been submitted by Scott D. Kraus, Ph.D. [File No. 15415]. On March 4, 2010, notice was published in the **Federal Register** (75 FR 9868) that a request for a permit to conduct research on green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys*

*kempii*), and loggerhead (*Caretta caretta*) sea turtles had been submitted by Allen Foley [File No. 14622]. The requested permits have been issued under the following authorities as applicable: the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226). Scott Kraus, Ph.D. [File No. 15415], New England Aquarium Edgerton Research Laboratory, Central Wharf, Boston, MA 02110, was issued a three-year permit to study North Atlantic right whales along the U.S. East Coast from New York Harbor to the Maine-Canada border. Dr. Kraus is authorized to conduct control and experimental visual trials to determine if right whales are responsive to various color and light characteristics. Dr. Kraus is authorized to closely approach whales by vessel for photo-identification, observation, and monitoring during trials. The research would seek to determine whether the sensory and behavioral capabilities of right whales can be used to avoid entanglements at depth and in conditions of poor visibility.

Allen Foley [File No. 14622], Florida Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute, 370 Zoo Parkway, Jacksonville, FL 32218, was issued a five-year permit to: (1) Monitor the abundance of loggerhead and green sea turtles; (2) characterize the aggregations of loggerhead, Kemp's ridley, and hawksbill sea turtles; and (3) determine the movements, behaviors, habitat-use, and reproductive status of loggerhead sea turtles in Florida Bay and the Everglades National Park. Researchers are authorized to approach green sea turtles during non-linear transect surveys and hand capture loggerhead, Kemp's ridley, and hawksbill sea turtles during capture-mark-recapture studies. Captured turtles would be examined, measured, photographed, weighed, flipper tagged, passive integrated transponder tagged, marked with paint, and blood sampled to determine and monitor sex ratios, genetic identities, health and reproductive status, growth, and subsequent movements and behaviors. A subset of animals would receive: skin and carapace sampling, a satellite transmitter attachment, ultrasound and/or laparoscopy and organ sampling before release.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), environmental assessments (EAs) were prepared analyzing the effects of the permitted activities on the human environment. Based on the analyses in the EAs, NMFS determined that issuance of the permits would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. That determination is documented in Findings of No Significant Impact (FONSI) for these actions.

As required by the ESA, issuance of the permits were based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 21, 2011.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2011–10175 Filed 4–26–11; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Comment Request.

**SUMMARY:** The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before June 27, 2011.

**ADDRESSES:** Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 22, 2011.

**James Hyler,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

### Office of Postsecondary Education

*Type of Review:* Extension.

*Title of Collection:* Upward Bound Annual Performance Report.

*OMB Control Number:* 1840–0762.

*Agency Form Number(s):* N/A.

*Frequency of Responses:* Annually.

*Affected Public:* Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

*Total Estimated Number of Annual Responses:* 1,143.

*Total Estimated Number of Annual Burden Hours:* 10,287.

*Abstract:* Grantees in the Upward Bound programs (Upward Bound, Upward Bound Math-Science, and Veterans Upward Bound) must submit this report annually. The Department uses the reports to evaluate the performance of grantees prior to awarding continuation funding and to assess grantees' prior experience at the end of the budget period. The Department will also aggregate the data

across projects to provide descriptive information on the programs and to analyze their outcomes in response to the Government Performance and Results Act.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4577. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–10173 Filed 4–26–11; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Notice of Submission for OMB Review

**AGENCY:** Department of Education.

**ACTION:** Comment request.

**SUMMARY:** The Director, Information Collection Clearance Division, Privacy, Information and Records 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 May 27, 2011.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*. Please note that written comments received in response to this notice will be considered public records.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: April 22, 2011.

**James Hyler,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

### Office of Vocational and Adult Education

*Type of Review:* Extension.

*Title of Collection:* Consolidated Annual Report for the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV).

*OMB Control Number:* 1830–0569.

*Agency Form Number(s):* N/A.

*Frequency of Responses:* Annually.

*Affected Public:* State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

*Total Estimated Number of Annual Responses:* 55.

*Total Estimated Annual Burden Hours:* 8,800.

*Abstract:* The purpose of this information collection package—the Consolidated Annual Report (CAR)—is to gather narrative, financial and performance data as required by the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV). Perkins IV requires the Secretary to provide the appropriate committees of Congress copies of annual reports received by the Department from each eligible agency that receives funds under the Act. The Office of Vocational Adult Education (OVAE) will determine each State's compliance with basic provisions of Perkins IV and the Education Department General Administrative Regulations [Annual Performance Report] and Part 80.41 [Financial Status Report]). OVAE will review performance data to determine whether, and to what extent, each State has met its State adjusted levels of performance for the core indicators described in section 113(b)(4) of Perkins IV.

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 4469. 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. 2011–10183 Filed 4–26–11; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP11–2009–000.

*Applicants:* Centra Pipelines Minnesota Inc.

*Description:* Centra Pipelines Minnesota Inc. submits tariff filing per 154.204: Revised Index of Shippers Filing to be effective 6/1/2011.

*Filed Date:* 04/18/2011.

*Accession Number:* 20110418–5156.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2010–000.

*Applicants:* Colorado Interstate Gas Company.

*Description:* Colorado Interstate Gas Company submits tariff filing per 154.204: CIG System Map Update to be effective 6/1/2011.

*Filed Date:* 04/18/2011.

*Accession Number:* 20110418–5163.

*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2011–000.

*Applicants:* El Paso Natural Gas Company.

*Description:* El Paso Natural Gas Company submits tariff filing per 154.204: System Map Update to be effective 6/1/2011.
*Filed Date:* 04/18/2011.
*Accession Number:* 20110418–5166.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2012–000.
*Applicants:* Wyoming Interstate Company, L.L.C.
*Description:* Wyoming Interstate Company, L.L.C. submits tariff filing per 154.204: System Map Update to be effective 6/1/2011.
*Filed Date:* 04/18/2011.
*Accession Number:* 20110418–5168.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2013–000.
*Applicants:* Midwestern Gas Transmission Company.
*Description:* Midwestern Gas Transmission Company submits tariff filing per 154.204: Proliance FA0742 to be effective 5/1/2011.
*Filed Date:* 04/18/2011.
*Accession Number:* 20110418–5223.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2014–000.
*Applicants:* Black Marlin Pipeline Company.
*Description:* Black Marlin Pipeline Company submits tariff filing per 154.204: Gas Quality Waiver to be effective 5/1/2011.
*Filed Date:* 04/18/2011.
*Accession Number:* 20110418–5228.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2015–000.
*Applicants:* Eastern Shore Natural Gas Company.
*Description:* Eastern Shore Natural Gas Company 2011 IT Revenue Sharing.
*Filed Date:* 04/18/2011.
*Accession Number:* 20110418–5235.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2016–000.
*Applicants:* Natural Gas Pipeline Company of America LLC.
*Description:* Natural Gas Pipeline Company of America LLC submits tariff filing per 154.204: Filing to Remove Expired Agreements to be effective 5/1/2011.
*Filed Date:* 04/19/2011.
*Accession Number:* 20110419–5094.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2018–000.
*Applicants:* CenterPoint Energy—Mississippi River Transmission, LLC.
*Description:* CenterPoint Energy—Mississippi River Transmission, LLC submits tariff filing per 154.204: Housekeeping Filing to be effective 5/20/2011.
*Filed Date:* 04/19/2011.
*Accession Number:* 20110419–5178.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2019–000.
*Applicants:* Maritimes & Northeast Pipeline, L.L.C.
*Description:* Maritimes & Northeast Pipeline, L.L.C. submits tariff filing per 154.204: Negotiated Rate Agreement—Shell Energy North America to be effective 4/12/2011.
*Filed Date:* 04/19/2011.
*Accession Number:* 20110419–5190.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2020–000.
*Applicants:* Gulf South Pipeline Company, LP.
*Description:* Gulf South Pipeline Company, LP submits tariff filing per 154.204: Devon 34694–29 Amendment to Negotiated Rate Agreement to be effective 4/20/2011.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5102.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2021–000.
*Applicants:* Florida Gas Transmission Company, LLC.
*Description:* Florida Gas Transmission Company, LLC submits tariff filing per 154.204: Housekeeping 4–20–11 to be effective 5/21/2011.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5125.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

*Docket Numbers:* RP11–2022–000.
*Applicants:* Dauphin Island Gathering Partners.
*Description:* Dauphin Island Gathering Partners submits tariff filing per 154.204: Nonconforming Agreements 2011–05 to be effective 5/1/2011.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5128.
*Comment Date:* 5 p.m. Eastern Time on Monday, May 02, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10056 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC11–72–000.
*Applicants:* Synergics Roth Rock Wind Energy, LLC, Synergics Roth Rock North Wind Energy, LLC, Gestamp Eolica S.L.
*Description:* Application of Synergics Roth Rock Wind Energy, LLC, *et. al.* for Authorization of Transaction Pursuant to Sec 203 of the Federal Power Act and

Request for Confidential Treatment of Transaction Documents, Expedited Consideration and Waivers.

*Filed Date:* 04/19/2011.

*Accession Number:* 20110419–5210.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 10, 2011.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–3394–000.

*Applicants:* Tampa Electric Company.

*Description:* Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii: Rate Schedule No. 6 with FPC and Amendment of Exhibit A to be effective 3/1/2011.

*Filed Date:* 04/19/2011.

*Accession Number:* 20110419–5188.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 10, 2011.

*Docket Numbers:* ER11–3395–000.

*Applicants:* El Paso Electric Company.

*Description:* El Paso Electric Company submits tariff filing per 35.13(a)(2)(iii: Second Regional Transmission Service Experiment Tariff to be effective 7/1/2011.

*Filed Date:* 04/19/2011.

*Accession Number:* 20110419–5192.

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 10, 2011.

*Docket Numbers:* ER11–3396–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG–Photon Solar 810 Wanamaker Ave Ontario Roof Top Solar Project to be effective 4/21/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5001.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3397–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG Photon Solar 4850 E Airport Dr Ontario Roof Top Solar Project to be effective 4/21/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5002.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3398–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG Photon Solar 1751–1753 S Point Ontario Roof Top Solar Project to be effective 4/21/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5003.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3399–000.

*Applicants:* Southern California Edison Company.

*Description:* Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: SGIA WDT SERV AG Photon Solar 8865 Utica Rancho Cucamonga Roof Top Solar Project to be effective 4/21/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5004.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3400–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* PJM Interconnection, L.L.C Notice of Cancellation of WMPA—Original Service Agreement No. 2705.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5060.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3401–000.

*Applicants:* Golden Spread Panhandle Wind Ranch, LLC.

*Description:* Golden Spread Panhandle Wind Ranch, LLC submits tariff filing per 35.1: Market-Based Rate Application to be effective 6/15/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5070.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3402–000.

*Applicants:* Tampa Electric Company.

*Description:* Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii: Emergency Interchange Service Schedule A&B to be effective 5/1/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5093.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3403–000.

*Applicants:* Tampa Electric Company.

*Description:* Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii: Emergency Interchange Service Contract with Southern Company to be effective 5/1/2011.

*Filed Date:* 04/20/2011.

*Accession Number:* 20110420–5094.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3404–000.

*Applicants:* EnergyUSA–TPC Corporation

*Description:* Notice of Cancellation of Market-Based Rate Tariff of EnergyUSA–TPC Corporation.

*Filed Date:* 04/19/2011

*Accession Number:* 20110419–5214

*Comment Date:* 5 p.m. Eastern Time on Tuesday, May 10, 2011.

*Docket Numbers:* ER11–3405–000

*Applicants:* EverPower Wind Holdings, Inc.

*Description:* EverPower Wind Holdings, Inc. submits tariff filing per 35.12: Petition of EverPower Wind Holdings For Order Accepting Market-Based Rate Tariff to be effective 7/1/2011.

*Filed Date:* 04/20/2011

*Accession Number:* 20110420–5111

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3406–000

*Applicants:* Highland North LLC

*Description:* Highland North LLC submits tariff filing per 35.12: Petition of Highland North LLC For Order Accepting Market-Based Rate Tariff to be effective 7/1/2011.

*Filed Date:* 04/20/2011

*Accession Number:* 20110420–5119

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3407–000

*Applicants:* Howard Wind LLC

*Description:* Howard Wind LLC submits tariff filing per 35.12: Petition of Howard Wind LLC For Order Accepting Market-Based Rate Tariff to be effective 7/1/2011.

*Filed Date:* 04/20/2011

*Accession Number:* 20110420–5120

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification]

simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10062 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP11–1997–000.

*Applicants:* Gulf South Pipeline Company, LP.

*Description:* Gulf South Pipeline Company, LP submits tariff filing per 154.204: Discount-Type Adjustment for Negotiated Rate Agreements to be effective 5/13/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5071.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1998–000.

*Applicants:* Gulf Crossing Pipeline Company LLC.

*Description:* Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Discount-Type Adjustment for Negotiated Rate Agreements to be effective 5/13/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5072.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1999–000.

*Applicants:* Texas Gas Transmission, LLC.

*Description:* Texas Gas Transmission, LLC submits tariff filing per 154.204: Discount-Type Adjustment for Negotiated Rate Agreements to be effective 5/13/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5073.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–2000–000.

*Applicants:* Gulf South Pipeline Company, LP.

*Description:* Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendment to Negotiated Rate Agreement Filing—Tenaska 38581–1 to be effective 4/12/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5074.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–2001–000.

*Applicants:* Cameron Interstate Pipeline, LLC.

*Description:* Cameron Interstate Pipeline, LLC submits tariff filing per 154.203: Cameron Interstate Pipeline Compliance Tariff Filing April 13, 2011 to be effective 1/1/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5095.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–2002–000.

*Applicants:* Gulf South Pipeline Company, LP.

*Description:* Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendment to Negotiated Rate Agreement—Oneok 54951–44 to be effective 4/14/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5135.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–2003–000.

*Applicants:* Guardian Pipeline, L.L.C.

*Description:* Guardian Pipeline, L.L.C. submits tariff filing per 154.204: EPC Correction to be effective 4/1/2011.

*Filed Date:* 04/13/2011.

*Accession Number:* 20110413–5144.

*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 14, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10064 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER11–2040–002.
*Applicants:* Schuylkill Energy Resources, Inc.
*Description:* Schuylkill Energy Resources, Inc. submits its refund report pursuant to the Commission's 2/17/11 Order.
*Filed Date:* 04/19/2011.
*Accession Number:* 20110421–0201.
*Comment Date:* 5 p.m. Eastern Time on Friday, May 10, 2011.

*Docket Numbers:* ER11–3236–001.
*Applicants:* New York Independent System Operator, Inc.
*Description:* New York Independent System Operator, Inc. submits tariff filing per 35.17(b): Amendment to March 30, 2011 Filing re BPCG Calculation to be effective 6/1/2011 under ER11–3236.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5146.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 27, 2011.

*Docket Numbers:* ER11–3408–000.
*Applicants:* California Independent System Operator Corporation.
*Description:* California Independent System Operator Corporation submits tariff filing per 35: 2011–04–20 CAISO's Filing in Compliance with Order 719 to be effective 4/20/2011.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5127.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3409–000.
*Applicants:* Florida Power & Light Company.
*Description:* Florida Power & Light Company submits tariff filing per 35: FPL's Revisions to Attachments H–A and H–B Sections of the OATT to be effective 5/15/2011.
*Filed Date:* 04/20/2011.
*Accession Number:* 20110420–5177.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 11, 2011.

*Docket Numbers:* ER11–3410–000.
*Applicants:* South Carolina Electric & Gas Company.
*Description:* South Carolina Electric & Gas Company submits tariff filing per 35.13(a)(2)(iii: FERC Electric Rate Schedule No. 60 to be effective 4/21/2011.
*Filed Date:* 04/21/2011.
*Accession Number:* 20110421–5048.
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 12, 2011.

*Docket Numbers:* ER11–3411–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Queue No. W3–124—Original Service Agreement No. 2851 to be effective 3/23/2011.
*Filed Date:* 04/21/2011.
*Accession Number:* 20110421–5050.
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 12, 2011.

*Docket Numbers:* ER11–3412–000.
*Applicants:* Tampa Electric Company.
*Description:* Tampa Electric Company submits tariff filing per 35.13(a)(2)(iii: QF Transmission Agreement with Auburndale Pwr Partners to be effective 5/1/2011.
*Filed Date:* 04/21/2011.
*Accession Number:* 20110421–5073.
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 12, 2011.

*Docket Numbers:* ER11–3413–000.
*Applicants:* Kentucky Utilities Company.
*Description:* Kentucky Utilities Company submits tariff filing per 35.13(a)(1): 04_21_11 Paris Rate Schedule 407 Settlement to be effective 3/31/2011.
*Filed Date:* 04/21/2011.
*Accession Number:* 20110421–5074.
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 12, 2011.

Take notice that the Commission received the following land acquisition reports:

*Docket Numbers:* LA11–1–000.
*Applicants:* Order 697–C 2010 1st Quarter Site Acquisition.
*Description:* Q1 2011 Land Acquisition Report of Iberdrola Renewables MBR Sellers.
*Filed Date:* 04/21/2011.
*Accession Number:* 20110421–5138.
*Comment Date:* 5 p.m. Eastern Time on Thursday, May 12, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10152 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings No. 2

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP11–1824–001.
*Applicants:* Natural Gas Pipeline Company of America.
*Description:* Compliance Filing of Natural Gas Pipeline Company of America LLC.
*Filed Date:* 04/14/2011.
*Accession Number:* 20110414–5160.
*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 26, 2011.

*Docket Numbers:* RP11–1867–001.
*Applicants:* Equitrans, L.P.
*Description:* Equitrans, L.P. submits tariff filing per 154.203: Compliance Filing to Scheduling and Curtailment of Service Revisions to be effective 4/2/2011.
*Filed Date:* 04/15/2011.
*Accession Number:* 20110415–5064.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 27, 2011.

*Docket Numbers:* CP09–54–008.
*Applicants:* Ruby Pipeline, L.L.C.
*Description:* Second Petition to Amend the Application of Ruby Pipeline, L.L.C.
*Filed Date:* 04/01/2011.
*Accession Number:* 20110401–5282.
*Comment Date:* 5 p.m. Eastern Time on Friday, April 29, 2011.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 18, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10066 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings No. 1

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP11–2004–000.
*Applicants:* Kinder Morgan Interstate Gas Transmission LLC.
*Description:* Kinder Morgan Interstate Gas Transmission LLC submits tariff filing per 154.204: Negotiated Rate 2011–04–14 Aventine NC, TMV A&R NRA to be effective 4/14/2011.
*Filed Date:* 04/14/2011.
*Accession Number:* 20110414–5072.
*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 26, 2011.

*Docket Numbers:* RP11–2005–000.
*Applicants:* Transcontinental Gas Pipe Line Company,
*Description:* Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: GT&C Section 18 Allocations to be effective 6/1/2011.
*Filed Date:* 04/14/2011.
*Accession Number:* 20110414–5105.
*Comment Date:* 5 p.m. Eastern Time on Tuesday, April 26, 2011.

*Docket Numbers:* RP11–2006–000.
*Applicants:* Equitrans, L.P.
*Description:* Equitrans, L.P. submits tariff filing per 154.204: Revised Form of Service Agreement for Rate Schedule FTS Exhibit A to be effective 5/15/2011.
*Filed Date:* 04/15/2011.
*Accession Number:* 20110415–5211.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 27, 2011.

*Docket Numbers:* RP11–2007–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* Texas Eastern Transmission, LP submits tariff filing per 154.204: Shell Energy North America 4–15–2011 Negotiated Rate to be effective 4/15/2011.
*Filed Date:* 04/15/2011.
*Accession Number:* 20110415–5230.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 27, 2011.

*Docket Numbers:* RP11–2008–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* Texas Gas Transmission, LLC submits tariff filing per 154.204: Creditworthiness to be effective 5/15/2011 Type: 570.
*Filed Date:* 04/15/2011.
*Accession Number:* 20110415–5287.
*Comment Date:* 5 p.m. Eastern Time on Wednesday, April 27, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that

enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 18, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10065 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP11–1989–000.
*Applicants:* Cameron Interstate Pipeline, LLC.
*Description:* Annual Report of Penalty Revenues Cameron Interstate Pipeline, LLC.
*Filed Date:* 04/11/2011.
*Accession Number:* 20110411–5231.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1990–000.
*Applicants:* Cameron Interstate Pipeline, LLC.
*Description:* Report of Interruptible Transportation Revenues Cameron Interstate Pipeline, LLC.
*Filed Date:* 04/11/2011.
*Accession Number:* 20110411–5232.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1991–000.
*Applicants:* Cameron Interstate Pipeline, LLC.
*Description:* Annual Report of Operational Balancing Agreements of Cameron Interstate Pipeline, LLC.
*Filed Date:* 04/11/2011.
*Accession Number:* 20110411–5233.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1992–000.
*Applicants:* American Midstream (Midla), LLC.
*Description:* American Midstream (Midla), LLC submits tariff filing per 154.204: Midla Negotiated Rate/Non-Conforming Agreement Filing to be effective 4/12/2011.
*Filed Date:* 04/12/2011.
*Accession Number:* 20110412–5203.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1993–000.
*Applicants:* Northern Natural Gas Company.
*Description:* Northern Natural Gas Company submits for filing a report of the penalty and daily delivery variance charge revenues for the period November 1, 2009, through October 31, 2010, that have been credited to shippers.
*Filed Date:* 04/13/2011.
*Accession Number:* 20110413–5024.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1994–000.
*Applicants:* Transcontinental Gas Pipe Line Company.
*Description:* Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.602: Cancellation of Rate Schedule SS–1 Open Access Storage to be effective 4/1/2011.
*Filed Date:* 04/13/2011.
*Accession Number:* 20110413–5046.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1995–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.203: Cancellation of Rate Schedules SS–1 7(c) Services to be effective 4/1/2011.
*Filed Date:* 04/13/2011.
*Accession Number:* 20110413–5047.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

*Docket Numbers:* RP11–1996–000.
*Applicants:* Cameron Interstate Pipeline, LLC.
*Description:* Annual Cash-Out Report of Cameron Interstate Pipeline, LLC.
*Filed Date:* 04/12/2011.
*Accession Number:* 20110412–5219.
*Comment Date:* 5 p.m. Eastern Time on Monday, April 25, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 13, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10063 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3378–000]**

### South Hurlburt Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of South Hurlburt Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10059 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3377–000]**

### Horseshoe Bend Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Horseshoe Bend Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10058 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3391–000]**

### Dempsey Ridge Wind Farm, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Dempsey Ridge Wind Farm, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10057 Filed 4–26–11; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3380–000]**

### Scylla Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Scylla Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10060 Filed 4–26–11; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3407–000]**

### Howard Wind LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Howard Wind LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 11, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10156 Filed 4–26–11; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3406–000]**

### Highland North LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Highland North LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of

future issuances of securities and assumptions of liability, is May 11, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10155 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3405–000]**

### EverPower Wind Holdings, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of EverPower Wind Holdings, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 11, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10154 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3401–000]**

### Golden Spread Panhandle Wind Ranch, LLC; Supplemental Notice That That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Golden Spread Panhandle Wind Ranch, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 11, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 21, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10153 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER11–3376–000]**

### North Hurlburt Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of North Hurlburt Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 10, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 20, 2011.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2011–10061 Filed 4–26–11; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

### Application of the Energy Planning and Management Program Power Marketing Initiative to the Boulder Canyon Project

**AGENCY:** Western Area Power Administration, Department of Energy.

**ACTION:** Notice of Decision and Notice of Proposal.

**SUMMARY:** The Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), will apply the Energy Planning and Management Program (Program) Power Marketing Initiative (PMI), as modified in this notice, to the Boulder Canyon Project (BCP), as proposed in a **Federal Register** notice (FRN) published on November 20, 2009. As a result, Western will extend a major percentage of the marketable capacity and energy to existing BCP customers. The remaining marketable resource shall form a resource pool that shall be marketed by Western to eligible customers by means of a public process. Western has determined that all BCP electric service contracts resulting from this effort shall have a term of thirty (30) years commencing October 1, 2017.

Western is also making new proposals relative to the BCP remarketing effort including marketable capacity and energy, a resource pool percentage, and excess energy provisions, as described in this notice. Western is accepting public comments on these proposals. All comments previously submitted in response to Western's November 20, 2009, notice will be considered in this process and are not required to be resubmitted.

**DATES:** Western's decisions as described in this notice will become effective upon May 27, 2011.

The comment period for these proposals begins today and ends June 16, 2011. Western will hold a public information forum and a public comment forum on the proposals contained in this FRN. The public information forum will be held on May 25, 2011, 10 a.m., MST, in Phoenix, Arizona. The public comment forum will be held on May 25, 2011, 1 p.m., MST, in Phoenix, Arizona.

Western will accept written comments on or before June 16, 2011. Western reserves the right to not consider any comments received after this date.

**ADDRESSES:** Comments may be submitted to: Mr. Darrick Moe, Western Area Power Administration, Desert Southwest Regional Manager, P.O. Box 6457, Phoenix, AZ 85005–6457. Comments may also be faxed to (602) 605–2490 or e-mailed to *Post2017BCP@wapa.gov.* The public information and comment forum location will be the Sheraton Crescent Hotel, 2620 West Dunlap Avenue, Phoenix, Arizona.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Simonton, Public Utilities Specialist, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005, telephone (602) 605–2675, e-mail *Post2017BCP@wapa.gov.* Information regarding Western's BCP Post 2017 remarketing efforts, the Program, and the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects (Conformed Criteria) published in the **Federal Register** (49 FR 50582) on December 28, 1984, are available at *http://www.wapa.gov/dsw/pwrmkt.*

**SUPPLEMENTARY INFORMATION:**

*Authorities:* Western markets the BCP power resources under the Department of Energy Organization Act (42 U.S.C. 7101–7352); and the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by later acts; and other acts that apply specifically to BCP, particularly section 5 of the Boulder Canyon Project Act of 1928 (45 Stat. 1057, as amended, 43 U.S.C. 617 *et seq.*).

*Background:* Existing BCP electric service contracts are set to expire on September 30, 2017. On November 20, 2009 (74 FR 60256), Western published its proposals: (1) To apply the Program's PMI to the BCP; (2) to market 2,044 megawatts (MW) of contingent capacity

with an associated 4,116,000 megawatt-hours (MWh) of annual firm energy from the BCP; (3) to extend 100 percent of the existing contractors' contingent capacity allocations, totaling 1,951 MW, and 95 percent of the proposed marketable firm energy, totaling 3,910,200 MWh annually to the existing contractors based proportionally upon their existing allocations of marketed annual firm energy and to create a single, one-time resource pool consisting of 93 MW of contingent capacity with an associated 205,800 MWh of annual firm energy; and, (4) that electric service contracts resulting from this effort will have a term of 30 years commencing on October 1, 2017.

Public information and comment forums were held in Las Vegas, Nevada; Phoenix, Arizona; and Ontario, California. Western received comments from existing power contractors, Native American tribes, electric cooperatives, municipals, and other potential contractors. Transcripts of the public information and comment forums, as well as all the comments received, may be viewed on Western's website at *http://www.wapa.gov/dsw/pwrmkt.*

In an April 16, 2010, **Federal Register** Notice (75 FR 19966), Western extended the comment period of the November 20, 2009, FRN from January 29, 2010, to September 30, 2010. This extension provided Western additional time to examine the issues raised in the comments it received, and allowed interested parties additional opportunity to consult with Western and comment on the proposals.

*Decision:* Based on comments received and a review of available resources, Western will: (1) Apply the PMI, as modified in this notice, to the Boulder Canyon Project remarketing effort including the establishment of a resource pool and, (2) establish a term of 30 years for all BCP electric service contracts beginning October 1, 2017. Western presents further proposals in the Proposals section of this FRN.

**Comments and Discussion**

Western received a significant number of comments on Western's proposals during the comment period. Western reviewed and considered all comments received. This section summarizes and responds to the comments received on the applicability of the PMI to BCP, the length of the contract term, and the other topics appropriate to the proposals. All written comments and transcripts from the public comment forums are available on Western's website at *http://www.wapa.gov/dsw/pwrmkt.*

*Comment:* Several comments were received requesting Western to suspend or delay the administrative remarketing process in order to either ensure all tribes in the BCP service area have sufficient time to become familiar with the effort or to provide pending legislation an opportunity to be enacted by Congress in the 111th congressional session.

*Response:* Based upon comments received, Western extended the comment period of the November 20, 2009, FRN from January 29, 2010, to September 30, 2010. In that time, Western identified 59 Federally recognized Native American tribes in the BCP marketing area and sent letters to each tribe notifying them of the BCP remarketing effort and extending an opportunity to consult with Western regarding the tribes' potential interests and participation in the public process.

To date, the legislative efforts to amend the Hoover Power Plant Act of 1984 (Hoover Act) (43 U.S.C. 619a) to make specific allocations of BCP power after September 30, 2017, have not come to fruition. Western acknowledges future legislation is possible, but also notes that Western has a statutory obligation to market BCP power pursuant to section 5 of the Boulder Canyon Project Act (Project Act) (43 U.S.C. 617d) in conjunction with section 302 of the Department of Energy Organization Act of 1977 (42 U.S.C. 7152). Therefore, Western will proceed to fulfill its marketing responsibilities related to BCP power through a public administrative process under current statutory authority.

*Comment:* Current legal authority does not preclude the application of the PMI to the BCP and Western has applied this protocol to other Federal power projects since its implementation in 1995. Western should continue with its proposal to apply the PMI to the BCP for this remarketing effort.

*Response:* Western agrees with this comment. The PMI was developed by Western through a public process and has been applied to other Federal projects as an appropriate means of balancing existing contractors' resource stability while also encouraging the widespread public use of the Federal generation. Western believes it is appropriate to apply the PMI, as modified herein, to the BCP at this time.

*Comment:* Comments were received questioning Western's authority under current law to apply the PMI to the BCP. Unlike other projects where Western has applied its PMI, the allocation of Hoover power has been the sole province of Congress. Western should explain its legal theories that may support the application of the PMI.

*Response:* Hoover power was originally allocated by the Secretary of Interior by regulation and administrative action and was not directly determined through legislation until the Hoover Act. To date legislative proposals to extend the specific allocations in the Hoover Act have not been enacted. Moreover, section 5 of the Project Act and the Department of Energy Organization Act of 1977 authorizes Western to establish and apply regulations governing BCP allocations, including the application of the PMI and the creation of a resource pool. Application of the PMI to the BCP expressly protects and reserves a major portion of the existing contractors' allocations while also providing potential contractors an opportunity to acquire an allocation. Western believes that application of the PMI has historically provided for a balancing of the needs of the existing contractors with those of prospective contractors. Therefore, it is consistent with the Hoover Act and appropriate for Western to apply the PMI to the BCP.

*Comment:* 43 U.S.C. section 617d(b) provides that holders of Hoover contracts shall be entitled to a renewal upon such terms and conditions as may be authorized or required under the then existing laws and regulations. This language provides Western express authority to apply its current regulations to the marketing of the BCP.

*Response:* Western agrees and is herein deciding on the application of the PMI in conformance with its existing regulations.

*Comment:* Section 18 of the Reclamation Project Act of 1939 (Reclamation Act) provided that "nothing in this Act shall be construed to amend the Boulder Canyon Project Act of 1928 (45 Stat. 1057), as amended." 43 U.S.C. 485j footnote. Reclamation law, including the preference provisions contained in 43 U.S.C. 485h, is not applicable to the BCP allocation process.

*Response:* Western's decision to apply the PMI means the majority of the resources will continue to be allocated to existing BCP customers. The criteria under which the resources in the resource pool will be allocated shall be determined in a subsequent public process. Western will comply with all applicable laws during that process.

*Comment:* Section 5 of the Project Act governs allocation of power from Hoover Dam. The first priority to that power goes in equal opportunity to the states of Arizona, California, and Nevada. Subsequently, the power may

be further allocated within the marketing area primarily pursuant to priorities developed by the Solicitor of the U.S. Department of the Interior in the 1930's.

*Response:* Section 5 of the Project Act (43 U.S.C. 617d(c)) provides that "the States of Arizona, California, and Nevada shall be given equal opportunity as * * * applicants" for BCP power. It does not require equal distribution of BCP power among the three states, as evidenced by the Hoover Act which did not reallocate BCP power in equal portions to Arizona, California, and Nevada.

*Comment:* Under section 5 (c) of the Project Act, Western lacks the statutory authority to withhold capacity and associated energy in order to create a resource pool.

*Response:* Section 5 specifically grants the Secretary broad discretion to allocate power in accordance with the public interest and this authority provides for the necessary administrative flexibility to reserve capacity and energy for the creation of a resource pool.

*Comment:* Consistent with current U.S. Department of Energy Native American policy, Western must maintain a government-to-government relationship with Federally-recognized Native American governments. Native American tribes should have the option to seek an allocation directly from Western.

*Response:* Western agrees with this comment and intends to accept applications from Federally-recognized tribes for consideration of a BCP allocation after an official call for applications has been made in the **Federal Register.**

*Comment:* Western should allocate all of the 2,074 MW of nameplate capacity of the BCP. The maximum dependable operating capacity should be marketed to the contractors who are paying for the continued operations and maintenance of the dam. If the lake conditions ever return to optimal, then the full capacity should be made available to those who have been paying for the full contract amounts but have not received it.

*Response:* Western has historically marketed the BCP capacity as contingent capacity. BCP contractors have always been delivered the capacity they have contracted for when the supporting generating units are available. Western has and will continue to deliver contracted contingent capacity to the extent it is available. As proposed, Western would market 2,044 MW of contingent capacity from the BCP. The remaining 30 MW would be used for project integration and reliability purposes. The BCP contractors would not be responsible for the expenses associated with the 30 MW as determined by Western. Western will determine the final marketable contingent capacity after considering the public comments it receives resulting from this notice.

*Comment:* Many comments requested Western to allocate the existing contractual amount of 4,527,001 MWh of annual firm energy while another comment supported the proposed 4,116,000 MWh.

*Response:* Western typically seeks to market an amount of energy that is commensurate with that which Western deems to be reasonably attainable as projected in hydrologic studies. Western and the Bureau of Reclamation (Reclamation) reviewed recent hydrologic studies provided by Reclamation. Several analyses were performed on the projected output of the BCP over the proposed term. The study results yielded an estimated average generation of approximately 3,650,000 MWh annually. Western proposed 4,116,000 MWh after considering factors such as average energy projections, resource stability, and frequency of excess energy. Comments received were predominantly in favor of maintaining the existing 4,527,001 MWh of annual firm energy irrespective of projected generation or an alternate logic. Western anticipates that just as it is today, all energy generated will be delivered to the BCP contractors based on their respective allocations regardless of the specific amount of energy marketed. It is noted that in the case of the BCP, the level of marketable energy has an impact on the amount of excess energy that is achieved. Due to this excess energy impact, Western believes that the best course of action is to propose marketable energy, excess energy provisions, and a resource pool percentage in a coordinated fashion with all impacting variables simultaneously considered. Western will determine the final marketable energy after considering the public comments it receives resulting from this notice.

*Comment:* Some comments suggested a 30-year term for contract offers taking effect after September 30, 2017, while several others requested 50 years.

*Response:* Western considered 20-, 30-, 40-, and 50-year contract terms. While the PMI calls for 20 years, based upon comments received, a longer term would be preferred by existing and potential new customers. With the dynamic nature of the electric industry in the last few decades, Western believes that a remarketing effort will be in order for less than 50 years to ensure that the most widespread use of the Federal generation is maintained. Therefore, Western will extend contract offers to existing and new contractors with the term of 30 years commencing October 1, 2017. Western anticipates that a 30-year term will allow sufficient resource planning horizons and added stability compared to a term less than 30 years, yet will also provide an allocation opportunity for future entities at an appropriate time.

*Comment:* Several comments requested that Western maintain the existing excess energy provisions consisting of Schedules A, B, and C as described in the Hoover Act and the Conformed Criteria. Contrary comments requested that all contractors should share in the allocation of excess energy in proportion to their respective energy allocation percentage. Another comment stated that Native American tribes and other new preference applicants should receive a first right of refusal to excess energy.

*Response:* Western considered all of these potential methods in creating the proposed excess energy provisions. Several impacting factors were identified and contemplated to derive what Western believes to be fair and equitable excess energy provisions. Western will determine the final excess energy provisions after considering the public comments it receives resulting from this notice.

*Comment:* The PMI should state specifically that contractors will be permitted to transact Hoover power, including ancillary services, with an Independent System Operator, including the California Independent System Operator (CAISO).

*Response:* Western is committed to working with the contractors and related entities to ensure BCP power, including the associated ancillary services, are able to be utilized in a suitable fashion.

*Comment:* Western should clarify in this initiative that contractors will obtain the same ancillary services such as ramping, regulation, and reserves that are presently provided for under the existing contracts.

*Response:* In Western's November 20, 2009, FRN, Western stated that "If by means of a public process, Western applies the PMI to the BCP, the current long-term contractors of the project would receive an extension of a major portion of the resources available to them at the time their contracts expire." While the capability to dynamically receive the BCP resource and these associated ancillary services is not

explicitly described here, it is currently Western's intent to continue to provide these capabilities to the existing and new BCP contractors into the next contract term.

*Proposals:* Western is making additional proposals and is seeking further comments on the amount of marketable contingent capacity and firm energy, the amount of marketable contingent capacity and firm energy to be extended to existing contractors, the size of the resource pool to be created, and excess energy provisions. Western proposes the following:

(1) To market 2,044 MW of contingent capacity with an associated 4,527,001 MWh of annual firm energy from the BCP; (2) to extend 100 percent of the existing contractors' contingent capacity allocations, totaling 1,951 MW, and 95 percent of the proposed marketable firm energy, totaling 4,300,651 MWh annually based proportionally upon their existing allocations of marketed annual firm energy; (3) to create a single, one-time resource pool consisting of 93 MW of contingent capacity with an associated 226,350 MWh of annual firm energy; and; (4) that excess energy provisions contain a first and second priority defined as:

*First Priority:* The Arizona Power Authority (APA) shall have a first priority right to delivery of excess energy, which is equal in each year of operation to 200,000 MWh; provided, however, that in the event excess energy in the amount of 200,000 MWh is not generated during any year of operation, APA shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600,000 MWh, inclusive of the current year's 200,000 MWh. The first right of delivery shall accrue at a rate of 200,000 MWh per year for each year excess energy in the amount of 200,000 MWh is not generated, less amounts of excess energy delivered.

*Second Priority:* Any remaining excess energy available after the first priority has been satisfied shall be allocated to each BCP contractor based on a proportionate share of its annual firm energy percentage allocation.

Western will consider all comments received pertaining to its proposals since the initiation of the public process when making its final decisions. Western will publish its final decisions and further address the comments received on these proposals in a separate **Federal Register** notice.

**Regulatory Procedure 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.

*Environmental Compliance*

In accordance with the DOE National Environmental Policy Act Implementing Procedures (10 CFR part 1021), Western has determined that these actions fit within class of action B4.1 Contracts/marketing plans/policies for excess electric power, in Appendix B to Subpart D to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions.

Dated: April 19, 2011.

**Timothy J. Meeks,**

*Administrator.*

[FR Doc. 2011–10081 Filed 4–26–11; 8:45 am]

**BILLING CODE 6450–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2003–0004; FRL–8871–9]**

## Access to Confidential Business Information by Syracuse Research Corporation

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

**ACTION:** Notice.

**SUMMARY:** EPA has authorized its contractor, Syracuse Research Corporation (SRC) of North Syracuse, New York, to access information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

**DATES:** Access to the confidential data will occur no sooner than May 4, 2011.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Pamela Moseley, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8956; fax number: (202) 564–8955; e-mail address: *mosely.pamela@epa.gov.*

*For general information contact:* The TSCAHotline, ABVIGoodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; e-mail address: *TSCAHotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this notice apply to me?*

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How can I get copies of this document and other related information?*

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

### II. What action is the Agency taking?

Under EPA contract number GS–00F–0019L, Order Number EP–G11H–00090, contractor SRC of 4225 Running Ridge Road, North Syracuse, NY and 2451 Crystal Drive, Suite 804, Arlington, VA will assist the Office of Pollution Prevention and Toxics (OPPT) by performing chemistry evaluation of New and Existing chemicals including the chemistry aspects of their manufacture, processing, use, potential new uses, and pollution prevention. These documents will be examined for information on chemical structures, manufacture, physical/chemical properties, production volume and other pertinent data used in the assessment of the potential effects of chemicals. In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–00F–0019L, Order Number EP–G11H–00090, SRC will require access to CBI submitted to EPA under

sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. SRC's personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide SRC access to these CBI materials on a need to know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters and at SRC's North Syracuse, NY and Arlington, VA sites in accordance with EPA's TSCA CBI Protection Manual.

Access to TSCA data, including CBI, will continue until September 30, 2011. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

SRC's personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

**List of Subjects**

Environmental protection, Confidential business information.

Dated: April 17, 2011.

**Mario Caraballo,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2011–9851 Filed 4–26–11; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9299–2]**

## Science Advisory Board Staff Office Request for Nominations of Candidates for a SAB Panel on Accounting for Carbon Dioxide ($CO_2$) Emissions From Biogenic Sources

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

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office is soliciting nominations of nationally and internationally recognized scientists for an SAB Expert Panel to provide independent advice to EPA on a draft greenhouse gas accounting methodology for biogenic carbon dioxide ($CO_2$) emissions from stationary sources.

**DATES:** Nominations should be submitted by May 18, 2011 per the instructions below.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this Request for Nominations, please contact Dr. Holly Stallworth, Designated Federal Officer (DFO), EPA Science Advisory Board Staff, at *stallworth.holly@epa.gov* or (202) 564–2073. General information concerning the SAB can be found on the SAB Web site at *http://www.epa.gov/sab.* Any inquiry regarding EPA's draft greenhouse gas accounting methodology for biogenic carbon dioxide ($CO_2$) emissions should be directed to Dr. Jennifer Jenkins, Office of Air and Radiation, Office of Atmospheric Programs, Climate Change Division at *jenkins.jennifer@epa.gov* or (202) 343–9361.

**SUPPLEMENTARY INFORMATION**

*Background:* The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App.2. EPA's Office of Air and Radiation has requested the EPA Science Advisory Board to conduct a review of the scientific and technical issues associated with a draft assessment of methodologies for accounting for $CO_2$ emissions from biogenic sources. Biogenic $CO_2$ emissions are defined as emissions of $CO_2$ from a stationary source directly resulting from the combustion or decomposition of biologically-based materials other than fossil fuels.

On December 23, 2010, the U.S. Environmental Protection Agency (EPA) issued a series of rules that put the necessary regulatory framework in place to ensure that (1) industrial facilities can get Clean Air Act permits covering their greenhouse gas (GHG) emissions when needed and (2) facilities emitting GHGs at levels below those established in the Tailoring Rule do not need to obtain federal Clean Air Act permits. In the Tailoring Rule, EPA did not take action on a request from some commenters to exclude biogenic carbon dioxide ($CO_2$) emissions. On January 12, 2011, through a letter from the Assistant Administrator for EPA's Office of Air and Radiation to the National Alliance of Forest Owners (NAFO) [*http://www.epa.gov/nsr/ghgdocs/McCarthytoMartella.pdf*], EPA announced it was going to take a series of steps to address the treatment of biogenic $CO_2$ emissions from stationary sources, including deferring for three years the application of the PSD and Title V permitting requirements to biogenic $CO_2$ emissions (proposed March 21, 2011, 76 FR 15249), and a detailed study of the scientific and technical issues associated with accounting for biogenic $CO_2$ emissions from stationary sources.

This EPA study will include a review of the technical information, and it will also include the development of accounting options for biogenic $CO_2$ emissions from stationary sources. EPA's review of technical information will include an assessment of the accounting approaches described in EPA's proposed "Deferral for $CO_2$ Emissions from Bioenergy and Other Biogenic Sources under the Prevention of Significant Deterioration (PSD) and Title V Programs" (76 FR 15249). The four broad types of accounting approaches are: case-by-case analysis of individual source-specific permit applications; categorical exclusion of biogenic $CO_2$ emissions from PSD permitting; exclusion of biogenic $CO_2$ emissions from PSD permitting contingent upon the U.S. land-use sector's remaining a "net sink"; and differential treatment of feedstock via approaches reflecting feedstock-specific attributes. Following this review, EPA plans to develop a set of appropriate accounting procedures, taking into account the approaches outlined above (*i.e.,* the range of broad types of options from case by case analysis to categorical exclusion) for biogenic $CO_2$ emissions that satisfy the principles of predictability, practicality, and scientific soundness.

The SAB thus will serve as the "independent scientific panel" cited in the January 2011 letter and March 2011 proposed deferral. The SAB Panel will conduct an independent review of the scientific and technical issues associated with EPA's assessment of accounting methodologies for biogenic $CO_2$ emissions. The public will have opportunities to provide comments for the SAB consideration.

Information on EPA actions related to biogenic carbon dioxide ($CO_2$) emissions from stationary sources may be found at *http://www.epa.gov/climatechange/emissions/biogenic_emissions.html* and *http://www.epa.gov/NSR/actions.htm1#mar11.*

*Expertise Sought:* In response to OAP's request, the SAB Staff Office is forming an expert panel under the auspices of the SAB to conduct this review. The SAB Staff Office requests nominations of recognized experts with

specific experience and knowledge in one or more of the following areas:

• Forestry, agriculture, and land-use change, specifically the effects of land management practices on the terrestrial biosphere.

• Inventory, measurement and carbon accounting methodologies for national greenhouse gas inventories, or other relevant emissions and sequestration quantification guidelines in use.

• Land use economics, ecological relationships between land use and climate change and/or estimates of biomass supply and demand.

• Environmental science and climate change, particularly with a multi-disciplinary perspective.

• Engineering, particularly with respect to the design and operation of solid-fuel-fired boilers and related air pollution control systems for the power and industrial sectors, including pulp and paper applications.

• Design and implementation of regulatory programs at local, state and federal scales, with specific reference to developing and/or implementing monitoring and accounting approaches for agriculture, land use, land-use change and forestry.

*How To Submit Nominations:* Any interested person or organization may nominate qualified individuals to be considered for appointment on this SAB Panel. Candidates may also nominate themselves. Nominations should be submitted in electronic format (which is preferred over hard copy) following the instructions for "Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed" provided on the SAB Web site at *http://www.epa.gov/sab.* The form can be accessed through the "Nomination of Experts" link on the blue navigational bar on the SAB Web site at *http://www.epa.gov/sab.* To receive full consideration, nominations should include all of the information requested.

EPA's SAB Staff Office requests contact information about: the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations. The deadline for submitting nominations is May 18, 2011.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Dr. Holly Stallworth, DFO, at the contact information provided above in this notice. Non-electronic submissions must follow the same format and contain the same information as the electronic.

The SAB Staff Office will acknowledge receipt of the nomination and inform nominees of the panel for which they have been nominated. From the nominees identified by respondents to this **Federal Register** notice (termed the "Widecast") and other sources, the SAB Staff Office will develop a smaller subset (known as the "Short List") for more detailed consideration. The Short List will be posted on the SAB Web site at *http://www.epa.gov/sab* and will include, for each candidate, the nominee's name and biosketch. Public comments on the Short List will be accepted for 21 calendar days. During this comment period, the public will be requested to provide information, analysis, or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates for the Panel.

For the SAB, a balanced panel is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the panel, along with information provided by candidates and information gathered by SAB Staff independently concerning the background of each candidate (*e.g.,* financial disclosure information and computer searches to evaluate a nominee's prior involvement with the topic under review). Specific criteria to be used in evaluation of an individual Panel member include:

(a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve and (e) ability to work constructively and effectively in committees.

Prospective candidates will be required to fill-out the "Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency" (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities (which includes membership on an EPA Federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. Ethics information, including EPA Form 3110–48, is available on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument.*

Dated: April 20, 2011.

**Anthony F. Maciorowski,**

*Deputy Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 2011–10180 Filed 4–26–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2010–0014; FRL–8870–6]**

## Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

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

**ACTION:** Notice.

**SUMMARY:** In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

**DATES:** Comments must be received on or before October 24, 2011.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0014, by one of the following methods:

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-evaluation Division (7508P), Office of Pesticide

Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. ATTN: Maia Tatinclaux.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

*Instructions:* Direct your comments to docket ID number EPA–HQ–OPP–2010–0014. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

**FOR FURTHER INFORMATION CONTACT:** Maia Tatinclaux, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–0123; e-mail address: *tatinclaux.maia@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

## II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 251 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Tables 1 and 2 of this unit.

Table 2 contains a list of registrations for which companies paying at one of the maintenance fee caps requested cancellation in the FY 2011 maintenance fee billing cycle. Because maintaining these registrations as active would require no additional fee, the Agency is treating these requests as voluntary cancellations under Section 6(f)(1).

The cancellation of 66222–64 Thionex Technical pursuant to this Notice supersedes the cancellation of 66222–64 Thionex Technical pursuant to the cancellation order issued by EPA on November 10, 2010, (75 FR 69065). Therefore, the terms for disposing of existing stocks of 66222–64 Thionex Technical are governed solely by this Notice.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

| Registration No. | Product name | Chemical name |
|---|---|---|
| 000432–00961 | Banol C | Chlorothalonil Propamocarb hydrochloride. |
| 002749–00545 | Trifluralin Technical | Trifluralin. |
| 004822–00513 | Raid FIK Formula H1A | Tetramethrin Permethrin d-Allethrin. |
| 007969–00161 | Dazomet Technical | Dazomet. |
| 037982–00002 | Chlorine Gas | Chlorine. |
| 045851–00001 | Chlorine | Chlorine. |
| 053883–00082 | CSI 30–30 | Piperonyl butoxide Permethrin. |
| 053883–00083 | CSI 2–2 ULV | Piperonyl butoxide Permethrin. |
| 053883–00085 | CSI 4–4 ULV | Piperonyl butoxide Permethrin. |
| 056410–00001 | Liquified Chlorine Gas Under Pressure | Chlorine. |
| 066591–00003 | Green's Clear Wood Preservative | Zinc naphthenate. |
| 068708–00008 | EC6107A | N-(coco alkyl)trimethylenediamine. |
| 070299–00001 | Zerotol Algaecide Fungicide | Hydrogen peroxide. |
| 070299–00002 | Oxidate Broad Spectrum Bactericide/Fungicide | Hydrogen peroxide. |
| 070299–00003 | Terracite | Sodium percarbonate. |
| 074530–00039 | Heloprid 2 AG | Imidacloprid. |
| 074530–00040 | Heloprid 4 | Imidacloprid. |
| AZ050001 | Riverdale Endurance Herbicide | Prodiamine. |
| AZ050011 | Select Max Herbicide With Inside Technology | Clethodim. |
| AZ060005 | Goaltender | Oxyfluorfen. |
| AZ960003 | Vectobac G Biological Larvacide Granules | Bacillus thuringiensis subsp. Israelensis. |
| AZ980001 | Treflan H.E.P. | Trifluralin. |
| CA030009 | Merit 75 WSP | Imidacloprid. |
| HI090002 | Mite Away Quick Strips | Formic acid. |
| OR060018 | Sprout Nip Emulsifiable Concentrate | Chlorpropham. |
| OR060026 | Rozol Pellets | Chlorophacinone. |
| OR080003 | Mustang Max EC Insecticide | Zeta-Cypermethrin. |
| VT900002 | Bonide Orchard Mouse Bait | Zinc phosphide (Zn3P2). |
| WA050008 | Everest 70% Water Dispersible Granular Herbicide | Flucarbazone-sodium. |
| WA060001 | Manzate 200 DF Fungicide | Mancozeb. |
| WA080012 | Pristine Fungicide | Pyraclostrobin boscalid. |

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR VOLUNTARY CANCELLATION DUE TO MAINTENANCE FEES

| Registration No. | Product name | Chemical name |
|---|---|---|
| 000100–00530 | Methidathion Technical | Methidathion. |
| 000100–00835 | Thiolux Dry Flowable Micronized Sulfur | Sulfur. |
| 000100–01049 | Karate CSO Insecticide | lambda-Cyhalothrin. |
| 000228–00387 | Riverdale Magellan | Phosphorous acid. |
| 000228–00440 | Acephate Tree, Turf & Ornamental Spray 97. | Acephate. |
| 000228–00448 | Multitude 75wsp Insecticide | Acephate. |
| 000228–00487 | Imidacloprid Pco Flowable | Imidacloprid. |
| 000228–00618 | Bifenthrin G-Pro Termiticide/insecticide | Bifenthrin. |
| 000228–00661 | Acephate E-Ag 90 EG Insecticide | Acephate. |
| 000228–00662 | Acephate E 75 WP Insecticide | Acephate. |
| 000228–00667 | Lambda-Cy E-Pro OS Insecticide | lambda-Cyhalothrin. |
| 000228–00669 | Lambda-Cy E-Pro GC Insecticide | lambda-Cyhalothrin. |
| 000239–02515 | Ortho Poison Ivy and Poison Oak Control. | Triclopyr,triethylamine salt. |
| 000239–02642 | Bug-B-Gon Insect Killer 1 | Cyfluthrin. |
| 000239–02649 | Bug-B-Gon Ready-Spray Insect Killer | Cyfluthrin. |
| 000239–02650 | Bug-B-Gon Insect Killer Concentrate | Cyfluthrin. |
| 000239–02667 | Grub-B-Gon Granular Insecticide | Benzoic acid,4-chloro-,2-benzoyl-2-(1,1-dimethylethyl)hydrazide. |
| 000239–02669 | Rosepride Rose & Flower Insect Killer—006%. | Bifenthrin. |
| 000239–02680 | Ortho Concentrate Bug-B-Gon Multi-Purpose Insect Killer. | Esfenvalerate. |
| 000239–02693 | Ortho 0.1% Deltamethrin Granule | Deltamethrin. |
| 000241–00361 | Detail Herbicide | Imazaquin<br>Dimethenamid. |
| 000264–00257 | Ethrel Brand Ethephon Plant Growth Regulator. | Ethephon. |
| 000264–00377 | Cerone Brand Ethephon Plant Regulator. | Ethephon. |
| 000264–00564 | Finish Brand Harvest Aid for Cotton | Ethephon<br>Cyclanilide. |
| 000264–00585 | Finish Brand 6 Harvest Aid for Cotton | Ethephon. |
| 000270–00230 | Menoke Indoor-Outdoor Dog and Cat Repellent. | Methylnonylketone. |

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR VOLUNTARY CANCELLATION DUE TO MAINTENANCE FEES—Continued

| Registration No. | Product name | Chemical name |
|---|---|---|
| 000270–00255 | Farnam Die Fly | Methomyl cis-9-Tricosene. |
| 000270–00293 | Repel Granular Dog and Cat Repellent | Methylnonylketone. |
| 000270–00317 | Aeh Concentrate Weed, Grass and Brush Killer. | Glufosinate. |
| 000270–00318 | Aeh Ready-To-Use Weed and Grass Killer. | Glufosinate. |
| 000270–00342 | Adams Pan-San | 1-Decanaminium,N,N-dimethyl-N-octyl-,chloride.<br>1-Decanaminium,N-decyl-N,N-dimethyl-,chloride.<br>1-Octanaminium,N,N-dimethyl-N-octyl-,chloride.<br>Alkyl*dimethylbenzylammoniumchloride*(50%C14,40%C12,10%C16). |
| 000279–03345 | F6135 G Insecticide | Bifenthrin. |
| 000538–00159 | Proturf Fungicide VI | Iprodione. |
| 000538–00163 | Scotts Super Bonus S Weed Control Plus Lawn Fertilizer. | Atrazine. |
| 000538–00236 | Private Label Feed and Weed | Mecoprop-P 2–4,D. |
| 000538–00266 | Grubex | Benzoic acid,4-chloro-,2-benzoyl-2-(1,1-dimethylethyl) hydrazide. |
| 000655–00690 | Prentox Pyronyl Horse Insecticide and Fly Repellent. | Pyrethrins.<br>Butoxypolypropyleneglycol.<br>Piperonyl butoxide. |
| 000773–00066 | Ectiban Insecticide Pour-On | Permethrin. |
| 000869–00039 | Green Light Wettable Dusting Sulphur | Sulfur. |
| 000869–00234 | Green Light Conquest Indoor & Outdoor Pest Control. | Permethrin. |
| 000869–00239 | Green Light Com-Pleet 18% Systemic Grass & Weed Killer. | Glyphosate-isopropylammonium. |
| 000869–00240 | Green Light Com-Pleet 1.92% Systemic Grass & Weed Kille. | Glyphosate-isopropylammonium. |
| 000869–00241 | Green Light Com-Pleet Systemic Grass & Weed Killer. | Glyphosate-isopropylammonium. |
| 000869–00244 | Green Light Permethrin Dust | Permethrin. |
| 001381–00206 | Gallant 1.6l | Imidacloprid. |
| 001448–00108 | W–60–7 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00109 | W–60–6 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00110 | W–60–5 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00205 | W–15–3 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00206 | W–15–4 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00207 | W–15–5 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00208 | W–15–6 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00216 | B–7–1 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00217 | B–7–2 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00218 | B–7–3 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00234 | W–30–3 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00235 | W–30–4 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00236 | W–30–5 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00237 | W–30–6 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00302 | W–60–9 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00305 | W–60–10 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001448–00378 | Busan 1303 | Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyldichloride. |
| 001529–00035 | Fungitrol 334 Fungicide | Tributyltinbenzoate. |
| 001529–00039 | Nuosept 485 Preservative | 1,2-Benzisothiazolin-3-one. |
| 002217–00332 | Vapona Insecticide Dairy Cattle Spray | Dichlorvos. |
| 002724–00580 | SPI Automatic Fogger | Permethrin. |
| 002724–00581 | Speer Multi-Purpose Insecticide Spray | Permethrin. |

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR VOLUNTARY CANCELLATION DUE TO MAINTENANCE FEES—Continued

| Registration No. | Product name | Chemical name |
|---|---|---|
| 003525–00102 | Winter Tablets "W" | Copper sulfate pentahydrate. |
| 004822–00274 | Raid Formula 274 Insect Killer | Permethrin.<br>d-Allethrin. |
| 004822–00277 | Raid Formula 277 Insect Killer | Permethrin.<br>d-Allethrin. |
| 004822–00551 | Raid Yard Guard Pld | Permethrin.<br>d-Allethrin. |
| 005383–00119 | Polyphase 685 | Ziram.<br>Carbamic acid,butyl-,3-iodo-2-propynyl ester. |
| 005383–00131 | Micropel It 10 Pvc | Octhilinone. |
| 005785–00062 | Bromo-Tabs | 2,4-Imidazolidinedione,1-bromo-3-chloro-5,5-dimethyl-. |
| 007401–00463 | Hi-Yield (r) Acephate | Acephate. |
| 007969–00122 | Basagran DF Herbicide | 3-Isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide,sodium salt. |
| 007969–00240 | Bas 500 ST Seed Treatment Fungicide | Pyraclostrobin. |
| 009150–00010 | Cryocide Disinfecting Concentrate | Chlorinedioxide.<br>1-Decanaminium,N-decyl-N,N-dimethyl-,chloride. |
| 009198–00152 | The Andersons Pcnb Granular Plus Fertilizer. | Pentachloronitrobenzene. |
| 010807–00061 | Misty Dualcide | Phenothrin.<br>Tetramethrin. |
| 010807–00074 | Misty Delete 3% Multipurpose Spray | Resmethrin. |
| 010807–00094 | Clear Lemon 10 Disinfectant | Alkyl*dimethylbenzylammoniumchloride*(60%C14,30%C16,5%C18,5%C12).<br>Alkyl*dimethylethylbenzylammoniumchloride*(68%C12,32%C14). |
| 010807–00099 | Misty WK–44 Liquid Weed Killer | Bromacil. |
| 010807–00104 | Misty Clear-Mint 10 | Alkyl*dimethylbenzylammoniumchloride*(60%C14,30%C16,5%C18,5%C12).<br>Alkyl*dimethylethylbenzylammoniumchloride*(68%C12,32%C14). |
| 010807–00111 | Misty Clear-Pyne | Pineoil.<br>Alkyl*dimethylbenzylammoniumchloride*(58%C14,28%C16,14%C12). |
| 010807–00123 | Misty Flea Killer | Phenothrin. |
| 010807–00151 | One Shot "foamy" Germicidal Cleaner & Deodorizer Rtu. | Alkyl*dimethylbenzylammoniumchloride*(60%C14,30%C16,5%C18,5%C12).<br>Alkyl*dimethylethylbenzylammoniumchloride*(68%C12,32%C14). |
| 010807–00178 | Misty Disinfectant and Deodorant Rtu | Ethanol.<br>o-Phenylphenol.<br>4-tert-Amylphenol. |
| 010807–00182 | Misty 5016 | Phenothrin.<br>Tetramethrin. |
| 010807–00183 | Misty 5001 | Permethrin. |
| 010807–00195 | Misty General Purpose Insect Killer with Sumithrin. | Phenothrin. |
| 010807–00210 | Weed and Vegetation Killer | Bromacil. |
| 010807–00211 | Misty Gwk-Four | Bromacil. |
| 013799–00026 | Four Paws Protector Quick Kill Flea & Tick Spray. | Pyrethrins.<br>Permethrin. |
| 019713–00377 | Maneb Technical | Maneb. |
| 033176–00044 | Airysol Brand Moth Sentry | Permethrin. |
| 035935–00071 | Nicosulfuron Technical | Nicosulfuron. |
| 039967–00046 | Preventol Ct-L | Sodium p-chloro-m-cresolate.<br>Octhilinone. |
| 039967–00051 | Preventol Hs 100–Cs50 | Deltamethrin. |
| 039967–00060 | Tcmtb 80 | 2-(Thiocyanomethylthio)benzothiazole. |
| 039967–00067 | Preventol TC 60 | 2-(Thiocyanomethylthio)benzothiazole. |
| 039967–00072 | Tcmtb 30 G | 2-(Thiocyanomethylthio)benzothiazole. |
| 039967–00078 | Tcmtb 30 WB | 2-(Thiocyanomethylthio)benzothiazole. |
| 051036–00421 | Basagran AG | 3-Isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide,sodium salt. |
| 053883–00098 | Prometon 25E | Prometon. |
| 053883–00099 | Prometon 4SC | Prometon. |
| 053883–00100 | S-Methoprene Bait | S-Methoprene. |
| 053883–00235 | Weed Preventer Plus Fertilizer | Trifluralin. |
| 058779–00003 | Steris-Hydrogen Peroxide Sterilant | Hydrogen peroxide. |
| 060063–00031 | Torrent 2F | Imidacloprid. |
| 060063–00032 | Torrent 1.6F | Imidacloprid. |
| 060063–00033 | Torrent 4f | Imidacloprid. |
| 066222–00064 | Thionex Technical Insecticide | Endosulfan. |
| 066330–00218 | Linuron 4L Weed Killer | Linuron. |
| 066330–00222 | Trifluralin 4ec | Trifluralin. |
| 066330–00226 | Trifluralin 4 TSF | Trifluralin. |
| 066330–00270 | Asulam Liquid Herbicide | Asulam,sodium salt. |
| 066330–00357 | Acephate Technical | Acephate. |

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR VOLUNTARY CANCELLATION DUE TO MAINTENANCE FEES—Continued

| Registration No. | Product name | Chemical name |
|---|---|---|
| 070506–00193 | Penncap-M Microencapsulated Insecticide. | Methylparathion. |
| AL810025 | Sencor Df 75% Dry Flowable Herbicide | Metribuzin. |
| AR070009 | Endigo ZC | Thiamethoxam, lambda-Cyhalothrin. |
| AR790014 | Sencor 4 Flowable Herbicide | Metribuzin. |
| AR960006 | Prometryne 4l Herbicide | Prometryn. |
| AZ050007 | Gaucho 600 Flowable | Imidacloprid. |
| AZ060003 | Devrinol 50–DF Selective Herbicide | Napropamide. |
| AZ070008 | Talus 40 SC Insect Growth Regulator | Buprofezin. |
| CA060010 | Liberty 280 Sl Herbicide | Glufosinate. |
| CA060011 | Ignite 280 SL Herbicide | Glufosinate. |
| CA790234 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| CA840007 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| CA870039 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| CA890004 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| CA950002 | Metasystox-R Spray Concentrate | Oxydemeton-methyl. |
| CA970032 | 98–2 | Methylbromide. |
| CO020004 | Flufenacet DF Herbicide | Flufenacet. |
| DE080002 | Dupont Coragen Insect Control | Chlorantraniliprole. |
| FL030014 | Switch 62.5wg | Cyprodinil.<br>Fludioxonil. |
| FL040007 | Bravo Weather Stik | Chlorothalonil. |
| FL080006 | Mocap EC Nematicide—Insecticide | Ethoprop. |
| FL940005 | Orbit Fungicide | Propiconazole. |
| FL970008 | 98–2 | Methylbromide. |
| GA040005 | Bravo Weather Stik | Chlorothalonil. |
| GA800021 | Sencor 4 Flowable Herbicide | Metribuzin. |
| ID010019 | Axiom Df Herbicide | Metribuzin.<br>Flufenacet. |
| ID060002 | Platinum | Thiamethoxam. |
| ID060005 | LSP Flowable Fungicide | Thiabendazole. |
| ID810045 | Sencor 4 Flowable Herbicide | Metribuzin. |
| ID810046 | Sencor 75 Wettable Granular Herbicide | Metribuzin. |
| ID870016 | Sencor 4 Flowable Herbicide | Metribuzin. |
| ID870017 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| ID950004 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| ID990017 | Starane | Fluroxypyr. |
| IL080001 | Treeage-Age | Emamectin benzoate. |
| IN080001 | Tree-Age | Emamectin benzoate. |
| KS040009 | Agrisolutions Atrazine 4l | Atrazine. |
| KS080001 | Quilt Fungicide | Propiconazole.<br>Azoxystrobin. |
| KY090029 | Tree-Age | Emamectin benzoate. |
| MD090001 | Tree-Age | Emamectin benzoate. |
| ME080002 | Dupont Coragen Insect Control | Chlorantraniliprole. |
| ME790009 | Sencor 4 Flowable Herbicide | Metribuzin. |
| MI050002 | Actellic 5 E Insecticide | Pirimiphos-methyl. |
| MI080001 | Tree-Age | Emamectin benzoate. |
| MI980002 | Transline | 3,6-Dichloro-2-pyridinecarboxylicacid,alkanolaminesalts(of ethanol and isopropanol series. |
| MN010004 | Flufenacet Df Herbicide | Flufenacet. |
| MN030016 | Fusilade DX Herbicide | Propanoic acid,2-(4-((5-(trifluoromethyl)-2-pyridinyl)oxy)phenoxy)-,butylester,(R)-. |
| MN080009 | Tree-Age | Emamectin benzoate. |
| MO080006 | Tree-Age | Emamectin benzoate. |
| MO100003 | Callisto Herbicide | Mesotrione. |
| MO840003 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| MS050017 | Bravo Weather Stik | Chlorothalonil. |
| MS060010 | Yuma 4E | Chlorpyrifos. |
| MS800002 | Sencor 4 Flowable Herbicide | Metribuzin. |
| MS970001 | Prowl 3.3 EC Herbicide | Pendimethalin. |
| MT950007 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| NC830012 | Dupont Velpar L Weed Killer | Hexazinone. |
| NC840005 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| ND040010 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| ND060004 | LSP Flowable Fungicide | Thiabendazole. |
| ND100004 | Callisto Herbicide | Mesotrione. |
| NE020001 | Gustafson LSP Flowable Fungicide | Thiabendazole. |
| NM950002 | Atroban 11% EC | Permethrin. |
| NM990004 | Atroban 11% EC | Permethrin. |
| NV060008 | Baythroid XL | beta-Cyfluthrin. |
| NY040001 | Sencor Df 75% Dry Flowable Herbicide | Metribuzin. |

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR VOLUNTARY CANCELLATION DUE TO MAINTENANCE FEES—Continued

| Registration No. | Product name | Chemical name |
|---|---|---|
| OK060003 | Gustafson Lsp Flowable Fungicide | Thiabendazole. |
| OR000003 | Rely Herbicide | Glufosinate. |
| OR040020 | Guthion Solupak 50% Wettable Powder Insecticide. | Azinphos-Methyl. |
| OR050004 | Subdue Maxx | D-Alanine,N-(2,6-dimethylphenyl)-N-(methoxyacetyl)-,methylester. |
| OR060002 | LSP Flowable Fungicide | Thiabendazole. |
| OR060003 | LSP Flowable Fungicide | Thiabendazole. |
| OR060015 | Platinum | Thiamethoxam. |
| OR070029 | Define DF Herbicide | Flufenacet. |
| OR070031 | Define DF Herbicide | Flufenacet. |
| OR090004 | Nemacur 3 | Fenamiphos. |
| OR920023 | Diuron 80DF | Diuron. |
| OR940025 | Diuron 4l | Diuron. |
| OR990043 | Starane | Fluroxypyr. |
| PA090001 | Tree-Age | Emamectin benzoate. |
| RI090003 | Temik Brand 15g Aldicarb Pesticide | Aldicarb. |
| SD030002 | Trust 4EC | Trifluralin. |
| SD040008 | Journey Herbicide | Imazapic.<br>Glyphosate-isopropylammonium. |
| SD040010 | Habitat Herbicide | 2-(4,5-Dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-3-pyridinecarboxylicacid. |
| SD060007 | LSP Flowable Fungicide | Thiabendazole. |
| SD980002 | Trifluralin 4EC | Trifluralin. |
| TX030006 | Dual Magnum Herbicide | S-Metolachlor. |
| TX070011 | Talus 40 SC Insect Growth Regulator | Buprofezin. |
| VA080008 | Treeage-Age | Emamectin benzoate. |
| WA000005 | Prowl 3.3 EC Herbicide | Pendimethalin. |
| WA030025 | Guthion Solupak 50% Wettable Powder Insecticide. | Azinphos-Methyl. |
| WA040031 | Sencor Df 75% Dry Flowable Herbicide | Metribuzin. |
| WA040033 | Sencor DF 75% Dry Flowable Herbicide | Metribuzin. |
| WA050001 | Rely Herbicide | Glufosinate. |
| WA060004 | LSP Flowable Fungicide | Thiabendazole. |
| WA090006 | Nemacur 3 Emulsifiable Insecticide-Nematicide. | Fenamiphos. |
| WA810033 | Temik(r) Aldicarb Pesticide 15% Granular. | Aldicarb. |
| WA900013 | Sevin Brand 80 S Carbaryl Insecticide | Carbaryl. |
| WI040005 | Echo 720 Agricultural Fungicide | Chlorothalonil. |
| WI040006 | Echo ZN Agricultural Fungicide | Chlorothalonil. |
| WI080005 | Tree-Age | Emamectin benzoate. |
| WV080002 | Tree-Age | Emamectin benzoate. |

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

| EPA company No. | Company name and address |
|---|---|
| 100 | Syngenta Crop Protection, LLC., P.O. Box 18300, Greensboro, NC 27419–8300. |
| 228 | Nufarm Americas, Inc., 150 Harvester Drive, Suite 200, Burr Ridge, IL 60527. |
| 239 | The Scotts Co., d/b/a The Ortho Group, P.O. Box 190, Marysville, OH 43040. |
| 241 | BASF Corp., 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. |
| 264 | Bayer Cropscience, LP, P.O. Box 12014, Research Triangle Park, NC 27709. |
| 270 | Farnam Companies, Inc., d/b/a Central Life Sciences, 301 West Osborn Road, Phoenix, AZ 85013. |
| 279 | FMC Corp., Agricultural Products Group,, Attn: Michael C. Zucker, 1735 Market Street, Room 1978, Philadelphia, PA 19103. |
| 432 | Bayer Environmental Science, 2 T. W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. |
| 538 | Scotts Co., The 14111 Scottslawn Rd., Marysville, OH 43041. |
| 655 | Prentiss, LLC Agent: Pyxis Regulatory Consulting, Inc., 4110 136th Street, NW., Gig Harbor, WA 98332. |
| 773 | Intervet, Inc., 556 Morris Ave., S5–2145A, Summit, NJ 07901. |
| 869 | Valent U.S.A. Corp., Agent For: Green Light Co., 1101 14th Street NW., Suite 1050, Washington, DC 20005. |
| 1381 | Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589. |

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

| EPA company No. | Company name and address |
|---|---|
| 1448 | Buckman Laboratories, Inc., 1256 North Mclean Blvd., Memphis, TN 38108. |
| 1529 | International Specialty Products, 1361 Alps Road, Wayne, NJ 07470. |
| 2217 | PBI/Gordon Corp., P.O. Box 014090, Kansas City, MO 64101–0090. |
| 2724 | Wellmark International, 1501 E. Woodfield Rd., Suite 200, W. Schaumburg, IL 60173. |
| 2749 | Aceto Agricultural Chemicals Corp., One Hollow Lane, Lake Success, NY 11042–1215. |
| 3525 | Qualco, Inc., 225 Passaic St., Passaic, NJ 07055. |
| 4822 | S.C. Johnson & Son, Inc., 1525 Howe St., Racine, WI 53403. |
| 5383 | Troy Chemical Corp., P.O. Box 955, Florham Park, NJ 07932–4200. |
| 5785 | Great Lakes Chemical Corporation, Agent: Chem Corp., 1801 Highway 52, West Lafayette, IN 47996–2200. |
| 7401 | Mandava Associates, LIC, Agent For: Voluntary Purchasing Groups, Inc., 6860 N. Dallas Pkwy, Suite 200, Plano, TX 75024. |
| 7969 | BASF Corp. Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709–3528. |
| 9150 | International Dioxicide, Inc., 40 Whitecape Drive, North Kingstown, RI 02852. |
| 9198 | The Andersons Lawn Fertilizer Division, Inc., d/b/a Free Flow Fertilizer, P.O. Box 119, Maumee, OH 43537. |
| 10807 | Amrep, Inc., 990 Industrial Park Drive, Marietta, GA 30062. |
| 13799 | Four Paws Products, Ltd., 50 Wireless Blvd., Hauppauge, NY 11788. |
| 19713 | Drexel Chemical Co., P.O. Box 13327, Memphis, TN 38113–0327. |
| 33176 | Amrep, Inc., 990 Industrial Park Dr., Marietta, GA 30062. |
| 35935 | Nufarm Limited, P.O. Box 13439, Research Triangle Park, NC 27709. |
| 37982 | Pioneer Americas, LLC, 490 Stuart Road, NE., Cleveland, TN 37312. |
| 39967 | Lanxess Corp., 111 Ridc Park W. Drive, Pittsburgh PA 15275–1112. |
| 45851 | Pool Chlor of Nevada, Inc., 3590 Dewey Drive, Las Vegas, NV 89118. |
| 51036 | BASF Sparks, LLC, P.O. Box 13528, Research Triangle Park, NC 27709–3528. |
| 53883 | Control Solutions, Inc., 5903 Genoa-Red Bluff Road, Pasadena, TX 77507–041. |
| 56410 | Riveroaks Chemical Company, 714 Herrick Court, Katy, TX 77450. |
| 58779 | Steris Corp., P.O. Box 147, St. Louis, MO 63166–0647. |
| 60063 | Sipcam Agro U.S.A., Inc., 2520 Meridian Pkwy., Suite 525, Durham, NC 27713. |
| 66222 | Makhteshim-Agan of North America, Inc., 4515 Falls of Neuse Rd., Suite 300, Raleigh, NC 27609. |
| 66330; WA050008 | Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513. |
| 66591 | Green Products Co., 810 Market Ave., Richmond, CA 94801–1325. |
| 68708 | Nalco Company, 1601 W. Diehl Rd., Naperville, IL 60563. |
| 70299 | Biosafe Systems, LLC, 22 Meadow Street, East Hartford, CT 06108. |
| 70506 | United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. |
| 74530 | Helm Agro U.S., Inc., Agent: Ceres International, LLC, 1087 Heartsease Drive, West Chester, PA 19382. |
| MS970001; SD040008; SD040010; WA000005; WA080012. | BASF Corp., P.O. Box 13528, Research Triangle Park, NC 27709–3528. |
| AL810025; AR790014; AZ050007; CA060010; CA060011; CA790234; CA840007; CA870039; CA890004; CO020004; FL080006; GA800021; ID010019; ID060005; ID810045; ID810046; ID870016; ID870017; ID950004; ME790009; MN010004; MO840003; MS800002; MT950007; NC840005; ND040010; ND060004; NE020001; NV060008; NY040001; OK060003; OR000003; OR040020; OR060002; OR060003; OR070029; OR070031; OR090004; RI090003; SD060007; WA030025; WA040031; WA040033; WA050001; WA060004; WA090006; WA810033; WA900013. | Bayer Cropscience, LP, P.O. Box 12014, Research Triangle Park NC 27709. |
| VT900002 | Bonide Products, Inc., Agent: Registrations by Design, Inc., P.O. Box 1019, Salem, VA 24153–3805. |
| CA030009 | Department of Pesticide Regulation, 1001 I Street, P.O. Box 4015, Sacramento, CA 95812–4015. |
| ID990017; MI980002; OR990043; AZ060005; AZ980001. | Dow Agrosciences, LIC 9330, Zionsville Rd 308/2e, Indianapolis, IN 46268–1054. |
| OR060018 | Easter Lily Research Foundation (of the) Pacific Bulb Growers Association, P.O. Box 907, Brookings, OR 97415. |
| DE080002; ME080002; NC830012 | E. I. Du Pont De Nemours & Co., Inc. (s300/419), Attn: Manager, U.S. Registration, Dupont Crop Protec, Wilmington DE 19898–0001. |
| OR080003 | FMC Corporation, Agricultural Products Group, 1735 Market Street, Rm. 1978, Philadelphia, PA 19103. |
| FL040007; GA040005; MS050017 | GB Biosciences Corp., P.O. Box 18300, Greensboro NC 27419–5458. |
| CA950002 | Gowan Co., P.O. Box 5569, Yuma, AZ 85366–5569. |
| WA060001 | Griffin, L.L.C., Agent: DuPont Crop Protection/Stine-Haskell Research Center, P.O. Box 30, Newark, DE 19714–0030. |
| CA970032; FL970008 | ICL–IP America, Inc., 95 Maccorkle Ave., Southwest, South Charleston, WV 25303. |
| NM950002; NM990004 | Intervet, Inc., 56 Livingston Ave., R–3–3153g, Roseland, NJ 70698. |
| OR060026 | Liphatech, Inc., 3600 West Elm Street, Milwaukee, WI 53209. |
| TX070011; AZ070008 | Nichino America, Inc., 4550 New Linden Hill Rd., Suite 501, Wilmington, DE 19808. |

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

| EPA company No. | Company name and address |
|---|---|
| HI090002 | Nod Apiary Products USA, Inc., 8345 NW 66th Street, #8418, Miami, FL 33166–2626. |
| AZ050001 | Nufarm Americas, Inc., 150 Harvester Drive, Suite 200, Burr Ridge, IL 60527. |
| WI040005; WI040006 | Sipcam Agro U.S.A., Inc., 2520 Meridian Pkwy., Suite 525, Durham, NC 27713. |
| AR070009; FL030014; FL940005; ID060002; IL080001; IN080001; KS080001; KY090029; MD090001; MI080001; MN030016; MN080009; MO080006; MO100003; ND100004; OR050004; OR060015; PA090001; TX030006; VA080008; WI080005; WV080002. | Syngenta Crop Protection, Inc., Attn: Regulatory Affairs, P.O. Box 18300, Greensboro, NC 27419–8300. |
| AZ060003 | United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. |
| AZ050011; AZ960003 | Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. |
| AR960006; KS040009; MI050002; MS060010; OR920023; OR940025; SD030002; SD980002. | Winfield Solutions, LLC, P.O. Box 64589, St Paul, MN 55164–0589. |

## III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 3 of Unit II. have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

## IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

## V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Tables 1 and 2 of Unit II. the existing stocks will be as follows:

### *A. Registrations Listed in Table 1 of Unit II*

The Agency anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

### *B. Registrations Listed in Table 2 of Unit II*

The effective date of cancellation will be the date of the cancellation order. The Agency anticipates allowing registrants to sell and distribute existing stocks of these products until January 15, 2012, 1 year after the date on which the maintenance fee was due. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 2 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

## List of Subjects

Environmental protection, Pesticides and pests.

Dated: April 14, 2011.

**Peter Caulkins,**

*Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2011–9935 Filed 4–26–11; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9299–4]**

## Notice of a Regional Waiver of Section 1605 (Buy American Requirement) of American Recovery and Reinvestment Act of 2009 (ARRA) to the Virginia Department of Environmental Quality (VADEQ)

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

**ACTION:** Notice.

**SUMMARY:** The Regional Administrator of EPA Region III is hereby granting a waiver of the Buy American requirement of the American Recovery and Reinvestment Act of 2009 (U.S. Pub. L. 111–5) (ARRA) Section 1605(a) under the authority of Section 1605(b)(1) (public interest waiver) to VADEQ for *de minimis* incidental components of eligible water infrastructure projects funded under

VADEQ's ARRA Leaking Underground Storage Tank (LUST) grant. This action permits the use of non-domestic iron, steel, and manufactured goods when they occur in *de minimis* incidental components of such projects that would otherwise be prohibited under Section 1605(a).

**DATES:** *Effective Date:* April 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Rick Rogers, Associate Director, Land and Chemicals Division, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Mail Code: 3LC50, Philadelphia, PA 19103–2029, Telephone: 215–814–5711, E-mail: *rogers.rick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a waiver of the requirements of Section 1605(a) of Public Law 111–5, Buy American requirements, to VADEQ for projects funded under their ARRA LUST grant, based on the public interest authority of Section 1605(b)(1). EPA issued a Nationwide "public interest" Buy American waiver on May 22, 2009 to allow the use of *de minimis* incidental components of eligible projects for Clean or Drinking Water State Revolving Fund (SRF) projects where such components comprise no more than 5 percent of the total cost of the materials used in and incorporated into a project. EPA Region III believes that the justifications applied to the SRF Buy American waiver pertain to equivalent drinking water infrastructure projects being completed under VADEQ's ARRA LUST grant, that are being used to extend public water lines to properties with petroleum-contaminated drinking water wells.

Among the General Provisions of ARRA, Section 1605(a) requires that "all of the iron, steel, and manufactured goods used in" a public works project built with ARRA funds must be produced in the United States unless the head of the respective Federal department or agency determines it necessary to waive this requirement based on findings set forth in Section 1605(b). In implementing ARRA Section 1605, EPA must ensure that the Section's requirements are applied consistent with congressional intent in adopting this Section and in the broader context of the purposes, objectives, and other provisions of ARRA applicable to projects funded under the Underground Storage Tank funds. Further, Congress' overarching directive to

"[t]he President and the heads of Federal departments and agencies [is that they] shall manage and expend the funds made available in this Act so as to achieve the purposes [of this Act], including commencing expenditures and activities as quickly as possible consistent with prudent management." [ARRA Section 3(b)].

Water infrastructure projects typically contain a relatively small number of high-cost components incorporated into the project that are iron, steel, and manufactured goods, such as pipes, tanks, pumps, motors, instrumentation and control equipment, treatment process equipment, and relevant materials to build structures for such facilities as treatment plants, pumping stations, pipe networks, etc. In bid solicitations for a project, these high-cost components are generally clearly described via project specific technical specifications. For these major components, utility owners and their contractors are generally familiar with the conditions of availability, the approximate cost, and the country of manufacture of available components.

Every water infrastructure extension project also involves the use of literally thousands of miscellaneous, generally low-cost components that are essential for but incidental to the construction, and are incorporated into the physical structure of the project, such as nuts, bolts, other fasteners, tubing, gaskets, etc. These incidental components are subject to the Buy American requirement of ARRA Section 1605(a), as stated above.

In contrast with the situation applicable to major components with regard to country of manufacture, availability, and procurement process, the situation applicable to these incidental components is one where the country of manufacture and the availability of alternatives are not readily or reasonably identifiable prior to procurement in the normal course of business. Particularly under the time constraints outlined above, it would be laborious, likely unproductive as to feasible alternatives, and disproportionate to the costs and time involved for an owner or its contractor to pursue such inquiries.

While evaluating the SRF waiver in 2009, EPA undertook multiple inquiries to identify the approximate scope of *de minimis* incidental components within water infrastructure projects. EPA consulted informally with many major associations representing equipment manufacturers and suppliers, construction contractors, consulting engineers, and water and wastewater utilities, and a contractor performed targeted interviews with several well-established water infrastructure contractors and firms who work in a variety of project sizes, and regional and demographic settings. The contractor asked the following questions:

—What percentage of total project costs were consumables or incidental costs?
—What percentage of materials costs were consumables or incidental costs?
—Did these percentages vary by type of project (drinking water vs. wastewater; treatment plant vs. pipe)?

The responses were consistent across the variety of settings and project types, and indicated that the percentage of total costs for drinking water or wastewater infrastructure projects comprised by these incidental components is generally not in excess of 5 percent of the total cost of the materials used in and incorporated into a project. Additionally, VADEQ investigated costs of LUST projects comprised by these components, and reports that the components will not exceed 5 percent of the total cost of those projects. In drafting this waiver, EPA has considered the *de minimis* proportion of project costs generally represented by each individual type of these incidental components within the hundreds or thousands of types of such components comprising those percentages, the fact that these types of incidental components are obtained by contractors in many different ways from many different sources, and the disproportionate cost and delay that would be imposed on projects if EPA did not issue this waiver.

Under such specific circumstances associated with these particular types of incidental components, EPA has found that it would be inconsistent with the public interest—and particularly with ARRA's directives to ensure expeditious water infrastructure construction consistent with prudent management, as cited above—to require that the national origins of these components be identified in compliance with Section 1605(a). Pursuant to ARRA Section 1605(b)(1), EPA is hereby issuing a waiver to VADEQ from the requirements of ARRA Section 1605(a) for the incidental components described above as a *de minimis* factor in the ARRA LUST projects, where such components comprise no more than 5 percent of the total cost of the materials used in and incorporated into a project.

VADEQ should, in consultation with their contractors, determine the items to be covered by this waiver, must retain relevant documentation of those items in their project files, and must summarize in reports to EPA the types and/or categories of items to which this waiver is applied, the total cost of incidental components covered by the waiver for each type or category, and the

calculations by which they determined the total cost of materials used in and incorporated into the project.

For the foregoing reasons, imposing ARRA's Buy American requirements for the category of *de minimis* incidental components described herein is not in the public interest. This supplementary information constitutes the "detailed written justification" required by Section 1605(c) for waivers "based on a finding under subsection (b)."

**Authority:** Pub. L. 111–5, Section 1605.

Dated: April 16, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011–10235 Filed 4–26–11; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are 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.:* 011794–015.

*Title:* COSCON/KL/YMUK/Hanjin Worldwide Slot Allocation & Sailing Agreement.

*Parties:* COSCO Container Lines Company, Limited; Hanjin Shipping Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; and Yangming (UK) Ltd.

*Filing Party:* Susannah K. Keagle; Nixon Peabody LLP; 555 West Fifth Street, 46th Floor; Los Angeles, CA 90013.

*Synopsis:* The amendment sets a maximum number of vessels the parties may deploy in the U.S. trades.

*Agreement No.:* 012120–001.

*Title:* CSAV/Liberty Turkey Space Charter Agreement.

*Parties:* Compana Sud Americana de Vapores S.A. and Liberty Global Logistics LLC.

*Filing Party:* Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Avenue; New York, NY 10016.

*Synopsis:* The amendment clarifies the number of units CSAV agrees to ship on Liberty's vessels.

By Order of the Federal Maritime Commission.

Dated: April 22, 2011.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. 2011–10165 Filed 4–26–11; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by e-mail at *OTI@fmc.gov.*

African Mediterranean Lines Inc. (NVO), Amci Bldg. Jezine Street, Saida, Lebannon, Officers: Ahmad K. Osman, Vice President/Assistant General Manager (Qualifying Individual), Hussein M. Bassal, Assistant General Manager, Application Type: New NVO License.

Bahaghari Holdings, Inc. dba Bahaghari Holdings, Inc., dba Bahaghari Express Cargo dba DL Lawin Cargo (NVO), 761 Highland Place, San Dimas, CA 91773, Officer: Leandro R. Dinglasan, President/CFO/Secretary, Application Type: New NVO License.

CTC Logistics (L.A.) Inc. (NVO), 5250 W. Century Blvd., Suite 660, Los Angeles, CA 90045, Officers: Ann L. Shang, CFO (Qualifying Individual), Yon L. Li, President, Application Type: QI Change.

Diversities International Corporation (NVO & OFF), 6022 Melrose Avenue, San Angelo, TX 76901, Officers: Nguyet Nguyen, President/Secretary (Qualifying Individual), Sean Lee, Vice President/Treasurer, Application Type: New NVO & OFF License.

DS International Corporation (NVO), 315 Harbor Way, South San Francisco, CA 94080, Officer: Charlie Shi, President/Secretary/Treasurer (Qualifying Individual), Application Type: New NVO License.

Falcon Shipping, Inc. (NVO & OFF), 4458 NW. 74th Avenue, Miami, FL 33166, Officer: Abdiel Falcon, President/Secretary (Qualifying Individual), Application Type: New NVO & OFF License.

Ground Cargo Transportation, Inc. (NVO & OFF), 9900 West Sample Road, #208, Coral Springs, FL 33065, Officer: Marcelo A. Leston,President/Secretary/Treasurer (Qualifying Individual), Application Type: Add NVO Service.

Jetstream Freight Forwarding, Inc. (OFF), 21024 24th Avenue South, #114, Sea-Tac, WA 98198, Officers: AiChu Sun-Franck, Sec./Dir. Of Ocean Export Operations (Qualifying Individual), Bryan D. Jennings, President, Application Type: QI Change.

"K" Line Logistics (U.S.A.) Inc. (OFF), 145 Hook Creek Blvd., Bldg. C5B, Valley Stream, NY 11581, Officers: Donald Whang, Vice President (Corporate Customs Officer) (Qualifying Individual), Mamoru Shozui, President, Application Type: QI Change.

NACA Logistics (USA), Inc. dba Vanguard Logistics Services, dba Vanguard dba Brennan International Transport, dba Brennan dba Conterm Consolidation Services, dba Conterm dba Direct Container Line dba DCL, dba Ocean World Shipping dba OWS dba Ocean Express, dba Oceanexpress (NVO), 857 East 230th Street, Carson, CA 90745, Officers: Michael Sinclair, President (Qualifying Individual), Charles Brennan, Vice President/Director, Application Type: Trade Name Change.

NK America, Inc. (NVO & OFF), 777 S. Kuther Road, Sidney, OH 45365, Officers: Bruce Hetzler, Vice President (Qualifying Individual), Hiroshi Sakairi, President, Application Type: QI Change.

Pactrans Global LLC. (NVO & OFF), 951–961 Thorndale Avenue, Bensenville, IL 60106, Officers: Alexander F. Pon, Managing Member (Qualifying Individual), Kitty Y. Pon, Manager, Application Type: New NVO & OFF License.

PME Logistics, Inc. (NVO), 19401 S. Main Street, Suite 102, Gardena, CA 90248, Officers: Nelson Yang, Secretary/Director (Qualifying Individual), David Y. Seong, President/CEO/Treasurer/CFO, Application Type: New NVO License.

Samskip Icepak Logistics, Inc. (NVO & OFF), 220 N. Centre Street, Suite 2, Merchantville, NJ 08109, Officer: Paul Dean, President (Qualifying Individual), Application Type: Name Change.

Sky 2 C Freight Systems, Inc. (NVO & OFF), 4221 Business Center Drive, Suite 5 & 6, Fremont, CA 94538,

Officer: Tarun Tandon, President (Qualifying Individual), Application Type: Add OFF Service.

Worldwide Freight Logistics, Corp. (OFF), 9222 NW. 101 Street, Medley, FL 33178, Officers: Heriberto Sanchez, Secretary/Treasurer (Qualifying Individual), Roxana Sanchez, CEO, Application Type: New OFF License.

Dated: April 22, 2011.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. 2011–10160 Filed 4–26–11; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 12, 2011.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

*1.* James Anton Senty, Onalaska, Wisconsin, to acquire control of Northern Financial Corporation, and thereby indirectly acquire control of Independence State Bank, both of Independence, Wisconsin.

Board of Governors of the Federal Reserve System, April 22, 2011.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2011–10134 Filed 4–26–11; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 2011.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

*1.* Canton Bancshares, Inc., Hannibal, Missouri, to acquire 100 percent of the voting shares of Canton State Bank, Canton, Missouri.

Board of Governors of the Federal Reserve System, April 22, 2011.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 2011–10133 Filed 4–26–11; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

*Vipul Bhrigu, PhD, University of Michigan Medical School:* Based on the findings of an investigation by the University of Michigan Medical School (UMMS) and additional analysis conducted by the Office of Research Integrity (ORI) during its oversight review, ORI found that Vipul Bhrigu, PhD, former postdoctoral fellow, Department of Internal Medicine, UMMS, engaged in research misconduct in research funded by National Cancer Institute (NCI), National Institutes of Health (NIH), grant R01 CA098730–05.

Specifically, ORI found that the Respondent knowingly and intentionally tampered with research materials related to five (5) immunoprecipitation/Western blot experiments and switched the labels on four (4) cell culture dishes for cells used in the same type of experiments to cause false results to be reported in the research record. ORI also found that the Respondent tampered with laboratory research materials by adding ethanol to his colleague's cell culture media, with the deliberate intent to effectuate the death of growing cells, which caused false results to be reported in the research record. ORI has concluded that these acts seriously deviated from those that are commonly accepted within the scientific community for proposing, conducting, and/or reporting research.

ORI found that the Respondent's intentional tampering of his colleague's laboratory research constitutes research misconduct as defined by 42 CFR part 93. ORI determined that the Respondent engaged in a pattern of dishonest conduct through the commission of multiple acts of data falsification. ORI also determined that the subterfuge in which he freely engaged for several months constitutes an aggravating factor. The Respondent attempted to mislead the University of Michigan (UM) police by initially denying involvement in the tampering and refusing to accept responsibility for this misconduct. The Respondent eventually made an admission only after the UM police informed him that his actions in the laboratory had been videotaped. This dishonest conduct established the Respondent's lack of present responsibility to be a steward of Federal funds (2 CFR 376 *et seq.;* 42 CFR 93.408).

The following administrative actions have been implemented for a period of three (3) years, beginning on April 7, 2011:

(1) Dr. Bhrigu is debarred from eligibility for any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement programs of the United States Government, referred to as "covered transactions," pursuant to HHS' Implementation of OMB

Guidelines to Agencies on Governmentwide Debarment and Suspension (2 CFR 376 *et seq.*); and

(2) Dr. Bhrigu is prohibited from serving in any advisory capacity to the U.S. Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

**FOR FURTHER INFORMATION CONTACT:** Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

**John Dahlberg,**

*Director, Division of Investigative Oversight, Office of Research Integrity.*

[FR Doc. 2011–10150 Filed 4–26–11; 8:45 am]

**BILLING CODE 4150–31–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Findings of Research Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

*Junghee J. Shin, PhD, New York Medical College:* Based on the report of an investigation conducted by New York Medical College (NYMC) and additional analysis by the Office of Research Integrity (ORI) in its oversight review, the U.S. Public Health Service (PHS) found that Junghee J. Shin, PhD, former graduate student, NYMC, engaged in research misconduct in research supported by National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), grants R01 AI048856 and R01 AI043063.

PHS found that the Respondent engaged in research misconduct by falsifying data in Figure 4 of a manuscript submitted to the journal *Infection and Immunity* (Shin, J.J., Godfrey, H.P., & Cabello, F.C. "Expression and localization of BmpC in *Borrelia burgdorferi* after growth under various environmental conditions." Submitted to *Infection and Immunity;* hereafter referred to as the "manuscript") and Figure 5 of a paper published in *Infection and Immunity* (Shin, J.J. Bryksin, A.V., Godfrey, H.P., & Cabello, F.C. "Localization of BmpA on the exposed outer membrane of *Borrelia burgdorferi* by monospecific anti-recombinant BmpA rabbit antibodies." *Infection and Immunity* 72(4):2280–2287, April 2004; hereafter referred to as the "paper." Retracted in: *Infection and Immunity* 76(10):4792, October 2008). Specifically, NYMC and ORI found that:

- Dr. Shin falsified microscopic immunofluorescence blank images in Figure 4 of the manuscript (top row, 1st, 2nd, 4th, and 5th panels, and bottom row, 1st panel) and Figure 5 of the paper (top row, 1st and 5th panels, lower 1st panel) by using one blank image from an unknown experiment to falsely represent the preimmunization control conditions (intact cells and methanol fixation) as well as the negative staining of anti-BmpC and anti-FlaB in Figure 4 and anti-FlaB in Figure 5 on intact cells.
- Dr. Shin falsified at least one of two images in Figure 4 of the manuscript and Figure 5 of the paper by using different portions of a green-red pair of microscopic immunofluorescence images (1230036.tif and 1230037.tif) because unfixed cells staining positive for BmpA in the top row, 4th panel, of Figure 5 were the same unfixed cells purportedly positive for OspA in the top row, 3rd panel, of Figure 4.
- Dr. Shin falsified at least one of two images in Figure 4 of the manuscript and Figure 5 of the paper by using different photo cropping from a single microscopic immunofluorescence image (1230039.tif) to represent fixed cells positive for BmpA and labeled with anti-FlaB in the lower row, 5th panel, of Figure 5 and to also represent fixed cells positive for BmpC and stained with anti-FlaB in the lower row, 5th panel, of Figure 4.

Dr. Shin has entered into a Voluntary Settlement Agreement in which she has voluntarily agreed, for a period of three (3) years, beginning on April 5, 2011:

(1) That any institution that submits an application for PHS support for a research project on which the Respondent's participation is proposed or that uses her in any capacity on PHS-supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of her duties to ORI for approval; the supervisory plan must be designed to ensure the scientific integrity of her research contribution; Respondent agrees that she will not participate in any PHS-supported research until such a supervision plan is submitted to ORI; and

(2) to exclude herself voluntarily from service in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

**FOR FURTHER INFORMATION CONTACT:** Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

**John Dahlberg,**

*Director, Division of Investigative Oversight, Office of Research Integrity.*

[FR Doc. 2011–10157 Filed 4–26–11; 8:45 am]

**BILLING CODE 4150–31–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Toxic Substances and Disease Registry

**[CDC–2011–0005]**

### Availability of Draft Toxicological Profile

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (DHHS).

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces the availability of the Toxicological Profile for Uranium (Update) for review and comment. These comments can include additional information or reports on studies about the health effects of uranium. Although ATSDR considered key studies for uranium during the profile development process, this **Federal Register** notice solicits any relevant, additional studies, particularly unpublished data. ATSDR will evaluate the quality and relevance of such data or studies for possible addition to the profile. ATSDR remains committed to providing a public comment period for this document as a means to best serve public health and our clients.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), § 104(i)(3), [42 U.S.C. 9604(i)(3)], directs the ATSDR administrator to prepare toxicological profiles of priority hazardous substances and, as necessary, to revise and publish each updated toxicological profile.

**DATES:** To be considered, comments on this draft toxicological profile must be received not later than July 29th, 2011. Comments received after the close of the public comment period will be considered at the discretion of ATSDR, based upon what is deemed to be in the best interest of the general public.

**ADDRESSES:** Requests for printed copies of the draft toxicological profile should be sent via e-mail to *cdcinfo@cdc.gov,* or

to Ms. Delores Grant, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333. Electronic access to this document is also available at the ATSDR Web site: *http://www.atsdr.cdc.gov/toxprofiles/index.asp.*

Electronic comments may be sent via *http://www.regulations.gov,* docket control number CDC–2011–0005. Please follow the directions on the site to submit comments. Comments may also be sent to the attention of Ms. Nickolette Roney, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333, e-mail: *tppubliccomment@cdc.gov.* Send one copy of all comments and three copies of all supporting documents. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information or other confidential information should be submitted in response to this notice.

**FOR FURTHER INFORMATION CONTACT:** Ms. Delores Grant, Division of Toxicology and Environmental Medicine, Agency for Toxic Substances and Disease Registry, Mailstop F–62, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (770) 488–3351.

**SUPPLEMENTARY INFORMATION:** The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain responsibilities for ATSDR and the U.S. Environmental Protection Agency (U.S. EPA) with regard to hazardous substances most commonly found at facilities on the CERCLA National Priorities List (NPL). As part of these responsibilities, the ATSDR administrator must prepare toxicological profiles for substances enumerated on the priority list of hazardous substances. This list identifies 275 hazardous substances which, according to ATSDR and U.S. EPA, pose the most significant potential threat to human health. The availability of the revised priority list of 275 hazardous substances was announced in the **Federal Register** on March 6, 2008 (73 FR 12178). In addition, ATSDR has the authority to prepare toxicological profiles for substances not found at sites on the National Priorities List, in an effort to "* * * establish and maintain inventory of literature, research, and studies on the health effects of toxic substances" under CERCLA Section 104(i)(1)(B), to respond to requests for consultation under section 104(i)(4), and as otherwise necessary to support the site-specific response actions conducted by ATSDR.

Each profile will include an examination, a summary, and an interpretation of available toxicological information and epidemiological evaluations. This information and these data identify the levels of significant human exposure for the substance and for the associated health effects. The profiles must also include a determination of whether adequate information on the health effects of each substance is available or is in the process of development. If adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to ensure the initiation of research to determine such health effects.

All toxicological profiles issued as "Drafts for Public Comment" represent ATSDR's best efforts to provide important toxicological information on priority hazardous substances.

The draft toxicological profile will be made available to the public on or about April 29th, 2011.

| Hazardous substance | CAS No. |
|---|---|
| Uranium (Update) ..... | 7440–61–1 |

Dated: April 21, 2011.

**Ken Rose,**

*Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.*

[FR Doc. 2011–10146 Filed 4–26–11; 8:45 am]

**BILLING CODE 4163–70–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–11–11EQ]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

**Proposed Project**

Environmental Health Specialists Network (EHS-Net) National Voluntary Environmental Assessment Information System (NVEAIS)—New—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The CDC is requesting OMB approval for the EHS-Net National Voluntary Environmental Assessment Information System (NVEAIS) to collect data from foodborne illness outbreak environmental assessments routinely conducted by local, state, territorial, or tribal food safety programs during outbreak investigations. Environmental assessment data are not currently collected at the national level. The data reported through this information system will provide timely data on the causes of outbreaks, including environmental factors associated with outbreaks, and are essential to environmental public health regulators' efforts to respond more effectively to outbreaks and prevent future, similar outbreaks. This information system is specifically designed to link to CDC's existing disease outbreak surveillance system (National Outbreak Reporting System).

The information system was developed by the Environmental Health Specialists Network (EHS-Net), a collaborative project of CDC, the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and nine states (California, Connecticut, Georgia, Iowa, New York, Minnesota, Oregon, Rhode Island, and

Tennessee). The network consists of environmental health specialists (EHSs), epidemiologists, and laboratorians. The EHS-Net has developed a standardized protocol for identifying, reporting, and analyzing data relevant to foodborne illness outbreak environmental assessments.

While conducting environmental assessments during outbreak investigations is routine for food safety program officials, reporting information from the environmental assessments to CDC is not. Thus, state, local, tribal, and territorial food safety program officials are the respondents for this data collection—one official from each participating program will report environmental assessment data on outbreaks. These programs are typically located in public health or agriculture agencies. There are approximately 3,000 such agencies in the United States. Thus, although it is not possible to determine how many programs will choose to participate, as NVEAIS is voluntary, the maximum potential number of program respondents is approximately 3,000.

These programs will be reporting data on outbreaks, not their programs or personnel. It is not possible to determine exactly how many outbreaks will occur in the future, nor where they will occur. However, we can estimate, based on existing data, that a maximum of 1,400 foodborne illness outbreaks will occur annually. Only programs in the jurisdictions in which these outbreaks occur would report to NVEAIS. Thus, not every program will respond every year. Consequently, the respondent burden estimate is based on the number of outbreaks likely to occur each year. Assuming each outbreak occurs in a different jurisdiction, there will be one respondent per outbreak.

There are two activities associated with NVEAIS that require a burden estimate. The first is entering all requested environmental assessment data into NVEAIS. This will be done once for each outbreak. This will take approximately 2 hours per outbreak.

The second activity is the manager interview that will be conducted at each establishment associated with an outbreak. Most outbreaks are associated with only one establishment; however, some are associated with multiple establishments. We estimate that a maximum average of 4 manager interviews will be conducted per outbreak. Each interview will take about 20 minutes.

The total estimated annual burden is 4,667 hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Food safety program personnel | Reporting environmental assessment data into electronic system. | 1,400 | 1 | 2 | 2,800 |
| Food safety program personnel | Manager interview | 1,400 | 4 | 20/60 | 1,867 |
| Total | | | | | 4,667 |

Dated: April 20, 2011.

**Daniel Holcomb,**

*Reports Clearance Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2011–10136 Filed 4–26–11; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

*Proposed Project:* Poison Help General Population Survey—(NEW)

The "*Poison Help* General Population Survey" is a 10-minute telephone survey designed to assess the campaign's effects among 2,000 households in the United States. The survey will be conducted with an adult household member and will address topics related to the types of individuals or organizations they would contact for information, advice, and treatment related to a poisoning. Survey results will be used to guide future communication, education and outreach efforts.

The annual estimate of burden is as follows:

| Instrument | Number of respondents | Responses per respondent | Total responses | Hours per response | Total burden hours |
|---|---|---|---|---|---|
| Survey Respondents | 2000 | 1 | 2000 | .167 | 334 |
| Screened households | 2353 | 1 | 2353 | .0167 | 39 |
| Total | | | 4353 | | 373 |

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: April 21, 2011.

**Reva Harris,**

*Acting Director, Division of Policy and Information Coordination.*

[FR Doc. 2011–10148 Filed 4–26–11; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### New Proposed Collection; Comment Request; Environmental Science Formative Research Methodology Studies for the National Children's Study

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

### Proposed Collection

*Title:* Environmental Science Formative Research Methodology Studies for the National Children's Study (NCS)

*Type of Information Collection Request:* Generic Clearance

*Need and Use of Information Collection:* The Children's Health Act of 2000 (Pub. L. 106–310) states:

(a) PURPOSE.—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) IN GENERAL.—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) REQUIREMENT.—The study under subsection (b) shall—

(1) incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on childrens well-being;

(2) gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research will be used to maximize the efficiency (measured by scientific robustness, participant and infrastructure burden, and cost) of environmental sample collection procedures and technology, storage procedures, accompanying questionnaires, and assays, and thereby inform data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to obtain an OMB generic clearance to collect environmental samples from homes and child care settings, and conduct accompanying short surveys related to the physical and chemical environment.

The NCS has obtained an OMB generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, recruitment and retention (0925–0590; requesting renewal). Under separate notice, the NCS is also requesting an OMB generic clearance to conduct formative research featuring biospecimen and physical measures, neurodevelopmental, and study logistic information collection. These separate and distinct generic clearances will facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

### Background

The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines "environment" broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of federal partners: The U.S. Department of Health and Human Services (including the Eunice Kennedy Shriver National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

In this request, the NCS is requesting a generic clearance from OMB for formative research activities relating to the collection, storage, management, and assay of environmental samples and accompanying questionnaires. The results from these formative research projects will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study environmental sample and information collection in a manner that minimizes public information collection burden compared to burden anticipated if these projects were incorporated directly into either the NCS Vanguard or Main Study.

The NCS has obtained generic clearance for formative research activities pertaining to outreach, recruitment and retention (0925–0590). Under separate notice, the NCS also requests an OMB generic clearance for formative research featuring biospecimen and physical measures, neurodevelopmental measures, and study logistic information collection. These separate and distinct generic clearances are requested to facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

*Frequency of Response:* Annual [As needed on an on-going and concurrent basis].

*Affected Public:* Members of the public, researchers, practitioners, and other health professionals.

*Type of Respondents:* Women of child-bearing age, fathers, public health and environmental science professional organizations and practitioners, and schools and child care organizations. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study.

*Annual reporting burden:* See Table 1. The annualized cost to respondents is estimated at: $780,000 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, ENVIRONMENTAL SCIENCE

| Data collection activity | Type of respondent | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|---|
| Home Air | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| Home Water | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| Home Dust | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| School and Child Care Facility Air | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| School and Child Care Facility Water | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| School and Child Care Facility Dust | NCS participants | 4,000 | 1 | 1 | 4,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 1 | 1 | 4,000 |
| Small, focused survey and instrument design and administration. | NCS participants | 4,000 | 2 | 1 | 8,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 2 | 1 | 8,000 |
| | Health and Social Service Providers. | 2,000 | 1 | 1 | 2,000 |
| | Community Stakeholders. | 2,000 | 1 | 1 | 2,000 |
| Focus groups | NCS participants | 2,000 | 1 | 1 | 2,000 |
| | Members of NCS target population (not NCS participants). | 2,000 | 1 | 1 | 2,000 |
| | Health and Social Service Providers. | 2,000 | 1 | 1 | 2,000 |
| | Community Stakeholders. | 2,000 | 1 | 1 | 2,000 |
| Cognitive interviews | NCS participants | 500 | 1 | 2 | 1,000 |
| | Members of NCS target population (not NCS participants). | 500 | 1 | 2 | 1,000 |
| Total | | 69,000 | | | 78,000 hrs |

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of

Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland, 20892, or call non-toll free number (301) 496–1877 or E-mail your request, including your address to *glavins@mail.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 20, 2011.

**Sarah L. Glavin,**

*Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development.*

[FR Doc. 2011–10191 Filed 4–26–11; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### New Proposed Collection; Comment Request; Study Logistic Formative Research Methodology Studies for the National Children's Study

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

### Proposed Collection

*Title:* Study Logistics Formative Research Methodology Studies for the National Children's Study (NCS).

*Type of Information Collection Request:* Generic Clearance.

*Need and Use of Information Collection:* The Children's Health Act of 2000 (Pub. L. 106–310) states:

(a) PURPOSE.—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) IN GENERAL.—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) REQUIREMENT.—The study under subsection (b) shall—

(1) incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research will be used to maximize the efficiency (measured by scientific robustness, participant and infrastructure burden, and cost) of new and existing study measures, participant communication techniques, and technologies being utilized, and thereby inform data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to obtain an OMB generic clearance to conduct formative research relating to instrument design and modality with a view to reduce item and unit non-response to Study instruments while preserving scientific quality.

The NCS has obtained an OMB generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, recruitment and retention (0925–0590; requesting renewal). Under separate notice, the NCS is also requesting an OMB generic clearance to conduct formative research featuring biospecimen and physical measures, environmental, and neurodevelopmental and psycho-social information collection. These separate and distinct generic clearances are requested to facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

### Background

The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines "environment" broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of Federal partners: the U.S. Department of Health and Human Services (including the Eunice Kennedy Shriver National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

In this request, NCS is requesting approval from OMB for formative research activities relating to instrument design and modality with a view to reduce item and unit non-response to Study instruments while preserving scientific quality. The results from these formative research projects will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study instrument design and modality in a manner that minimizes public information collection burden compared to burden anticipated if these instruments were incorporated directly into either the NCS Vanguard or Main Study.

The NCS has obtained generic clearance for formative research activities pertaining to outreach, recruitment and retention (0925–0590). Under separate notice, the NCS also requests an OMB generic clearance for formative research featuring biospecimen and physical measures, environmental samples, and

neurodevelopmental measures. These separate and distinct generic clearances are requested to facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

*Frequency of Response:* Annual [As needed on an on-going and concurrent basis].

*Affected Public:* Members of the public, researchers, practitioners, and other health professionals.

*Type of Respondents:* Women of child-bearing age, fathers, health care facilities and professionals, public health professional organizations and practitioners, and schools and child care organizations. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study.

*Annual Reporting Burden:* See Table 1. The annualized cost to respondents is estimated at: $300,000 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, STUDY OPERATIONS

| Data collection activity | Type of respondent | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|---|
| Small, focused survey and instrument design and administration. | NCS participants | 4,000 | 2 | 1 | 8,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 2 | 1 | 8,000 |
| | Health and Social Service Providers | 2,000 | 1 | 1 | 2,000 |
| | Community Stakeholders | 2,000 | 1 | 1 | 2,000 |
| Focus groups | NCS participants | 2,000 | 1 | 1 | 2,000 |
| | Members of NCS target population (not NCS participants). | 2,000 | 1 | 1 | 2,000 |
| | Health and Social Service Providers | 2,000 | 1 | 1 | 2,000 |
| | Community Stakeholders | 2,000 | 1 | 1 | 2,000 |
| Cognitive interviews | NCS participants | 500 | 1 | 2 | 1,000 |
| | Members of NCS target population (not NCS participants). | 500 | 1 | 2 | 1,000 |
| Total | | 21,000 | | | 30,000 |

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call non-toll free number (301) 496–1877 or E-mail your request, including your address to *glavins@mail.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 20, 2011.

**Sarah L. Glavin,**

*Deputy Director, Office of Science Policy, Analysis and Communications, National Institute of Child Health and Human Development.*

[FR Doc. 2011–10189 Filed 4–26–11; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; Comment Request; National Institutes of Health Loan Repayment Programs

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Division of Loan Repayment of the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 10, 2011, at page numbers 7570–7571 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 NIH 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:* National Institutes of Health Loan Repayment Programs. *Type of Information Collection Request:* Extension of a currently approved collection (OMB No. 0925–0361, expiration date 06/30/11). *Form Numbers:* NIH 2674–1, NIH 2674–2, NIH 2674–3, NIH 2674–4, NIH 2674–5, NIH 2674–6, NIH 2674–7, NIH 2674–8, NIH 2674–9, NIH 2674–10, NIH 2674–11, NIH 2674–12, NIH 2674–13, NIH 2674–14, NIH 2674–15, NIH 2674–16, NIH 2674–17, NIH 2674–18, and NIH 2674–19. *Need and Use of Information Collection:* The NIH makes available financial assistance, in the form of educational loan repayment, to M.D., PhD, Pharm.D., D.D.S., D.M.D.,

D.P.M., D.C., and N.D. degree holders, or the equivalent, who perform biomedical or behavioral research in NIH intramural laboratories or as extramural grantees or scientists funded by domestic nonprofit organizations for a minimum of 2 years (3 years for the General Research Loan Repayment Program (LRP)) in research areas supporting the mission and priorities of the NIH.

The AIDS Research LRP (AIDS–LRP) is authorized by Section 487A of the Public Health Service (PHS) Act (42 U.S.C. 288–1), and the Clinical Research LRP for Individuals from Disadvantaged Backgrounds (CR–LRP) is authorized by Section 487E (42 U.S.C. 288–5). The General Research LRP (GR–LRP) is authorized by Section 487C of the PHS Act (42 U.S.C. 288–3), and the Clinical Research LRP (LRP–CR) is authorized by Section 487F (42 U.S.C. 288–5a). The Pediatric Research LRP (PR–LRP) is authorized by Section 487F of the PHS Act (42 U.S.C. 288–6), and the Extramural Clinical Research LRP for Individuals from Disadvantaged Backgrounds (ECR–LRP) is authorized by an amendment to Section 487E (42 U.S.C. 288–5). The Contraception and Infertility Research LRP (CIR–LRP) is authorized by Section 487B of the PHS Act (42 U.S.C. 288–2), and the Health Disparities Research LRP (HD–LRP) is authorized by Section 485G (42 U.S.C. 287c–33).

The Loan Repayment Programs can repay up to $35,000 per year toward a participant's extant eligible educational loans, directly to financial institutions. The information proposed for collection will be used by the Division of Loan Repayment to determine an applicant's eligibility for participation in the program. *Frequency of Response:* Initial application and one- or two-year renewal application. *Affected Public:* Individuals or households; nonprofits; and businesses or other for-profit. *Type of Respondents:* Physicians, other scientific or medical personnel, and institutional representatives. The annual reporting burden is as follows:

| Type of respondents | Number of respondents | Estimated number of responses per respondent | Average burden hours per response | Annual burden hours requested |
|---|---|---|---|---|
| *Intramural LRPs:* | | | | |
| Initial Applicants | 50 | 1 | 10.11 | 505.50 |
| Advisors/Supervisors | 50 | 1 | 1 | 50.00 |
| Recommenders | 140 | 1 | .5 | 70.00 |
| Financial Institutions | 10 | 1 | .25 | 2.50 |
| Subtotal | 250 | | | 628.00 |
| *Extramural LRPs:* | | | | |
| Initial Applicants | 2,050 | 1 | 10.75 | 22,037.50 |
| Advisors/Supervisors | 1,840 | 1 | 1 | 1,840.00 |
| Recommenders | 6,150 | 1 | .5 | 3,075.00 |
| Financial Institutions | 100 | 1 | .25 | 25.00 |
| Subtotal | 10,140 | | | 26,977.50 |
| *Intramural LRPs:* | | | | |
| Renewal Applicants | 50 | 1 | 7.42 | 371.00 |
| Advisors/Supervisors | 50 | 1 | 2.2 | 110.00 |
| Subtotal | 100 | | | 481.00 |
| *Extramural LRPS:* | | | | |
| Renewal Applicants | 1,200 | 1 | 8.58 | 10,296.00 |
| Advisors/Supervisors | 900 | 1 | 1.7 | 1,530.00 |
| Recommenders | 3,500 | 1 | .5 | 1,750.00 |
| Subtotal | 5,600 | | | 13,576.00 |
| Total | 16,090 | | | 41,662.50 |

The annualized cost to respondents is estimated at $1,701,641.69. The annualized cost to the Federal Government for administering the Loan Repayment Programs is expected to be $1,448,100. This cost includes administrative support by the Division of Loan Repayment and $800,000 for the continuing development and maintenance of the LRP Management Information System/Online Application System (MIS/OAS).

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) 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) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on 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 at *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: Milton Hernandez, PhD, Director, Division of Loan Repayment, National Institutes of

Health, 6011 Executive Blvd., Room 206 (MSC 7650), Bethesda, Maryland 20892–7650. Dr. Hernandez may be contacted via e-mail at *mh35c@.nih.gov* or by calling 301–496–0180.

*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: April 20, 2011.

**Lawrence A. Tabak,**

*Deputy Director, National Institutes of Health.*

[FR Doc. 2011–10186 Filed 4–26–11; 8:45 am]

**BILLING CODE 4140–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Revision to Proposed Collection; Comment Request; Formative Research Methodology Studies for the National Children's Study

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**Proposed Collection**

*Title:* Formative Research and Pilot Methodology Studies for the National Children's Study (NCS).

*Type of Information Collection Request:* RENEWAL of OMB Clearance 0925–0590, Expiration June 30, 2011.

*Need and Use of Information Collection:* The Children's Health Act of 2000 (Public Law 106–310) states:

(a) PURPOSE.—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) IN GENERAL.—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) Plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) Investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) REQUIREMENT.—The study under subsection (b) shall—

(1) Incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) Gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) Consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research and pilot tests will be used to maximize the efficiency of NCS procedures, materials, and methods for outreach, engagement of stakeholders, recruitment and retention of Study subjects, and to ensure scientifically robust data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to renew its OMB generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, engagement, recruitment, consent and questionnaire design, and retention activities. Under separate notice, the NCS also requests OMB generic clearance for formative research featuring environmental, neurodevelopmental, and study logistic information collection. These separate and distinct generic clearances will facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

**Background**

The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines "environment" broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of Federal partners: The U.S. Department of Health and Human Services (including the Eunice Kennedy Shriver National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

The results from formative research and pilot tests proposed will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study recruitment, retention, study visit measures and study logistics in a manner that minimizes public information collection burden compared to burden anticipated if these projects were incorporated directly into either the NCS Vanguard or Main Study.

With this submission, the NCS seeks to renew its OMB generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, engagement, recruitment, consent and questionnaire design, and retention activities. Under separate notice, the NCS also requests OMB generic clearance for formative research featuring environmental, neurodevelopmental, and study logistic information collection. These separate and distinct generic clearances will facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

*Frequency of Response:* Annual [As needed on an on-going and concurrent basis].

*Affected Public:* Members of the public, researchers, practitioners, and other health professionals.

*Type of Respondents:* Women of child-bearing age, fathers, community leaders, members, and organizations, health care facilities and professionals, public health, environmental, social and cognitive science professional organizations and practitioners, hospital administrators, cultural and faith-based centers, and schools and child care organizations. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study.

*Annual reporting burden:* See Table 1. The annualized cost to respondents is estimated at: $300,000 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY

| Data collection activity | Type of respondent | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|---|
| Small, focused survey and instrument design and administration. | NCS participants | 4,000 | 2 | 1 | 8,000 |
| | Members of NCS target population (not NCS participants). | 4,000 | 2 | 1 | 8,000 |
| | Health and Social Service Providers | 2,000 | 1 | 1 | 2,000 |
| | Community Stakeholders | 2,000 | 1 | 1 | 2,000 |
| Focus groups | NCS participants | 2,000 | 1 | 2 | 2,000 |
| | Members of NCS target population (not NCS participants). | 2,000 | 1 | 2 | 2,000 |
| | Health and Social Service Providers | 2,000 | 1 | 2 | 2,000 |
| | Community Stakeholders | 2,000 | 1 | 2 | 2,000 |
| Cognitive interviews | NCS participants | 500 | 1 | 2 | 1,000 |
| | Members of NCS target population (not NCS participants). | 500 | 1 | 2 | 1,000 |
| Total | | 21,000 | | | 30,000 hrs |

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call non-toll free number (301) 496–1877 or E-mail your request, including your address to *glavins@mail.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 20, 2011.

**Sarah L. Glavin,**

*Deputy Director, Office of Science Policy, Analysis and Communications, National Institute of Child Health and Human Development.*

[FR Doc. 2011–10171 Filed 4–26–11; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### New Proposed Collection; Comment Request; Biospecimen and Physical Measures Formative Research Methodology Studies for the National Children's Study

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

*Proposed Collection:*

*Title:* Biospecimen and Physical Measures Formative Research Methodology Studies for the National Children's Study (NCS)

*Type of Information Collection Request:* Generic Clearance

*Need and Use of Information Collection:* The Children's Health Act of 2000 (Pub. L. 106–310) states:

(a) PURPOSE.—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) IN GENERAL.—The Director of the National Institute of Child Health and Human Development * shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) Plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) Investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) REQUIREMENT.—The study under subsection (b) shall—

(1) Incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) Gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) Consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research tests will be used to maximize the efficiency (measured by scientific robustness, participant and infrastructure burden, and cost) of biospecimen and physical measurement collection procedures, accompanying questionnaires, storage and information management processes, and assay procedures, thereby informing data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to obtain an OMB generic clearance to conduct formative research featuring biospecimen and physical measurement collections.

The NCS has obtained an OMB generic clearance to conduct survey and instrument design and administration, focus groups, cognitive interviews, and health and social service provider feedback information collection surrounding outreach, recruitment, and retention (0925–0590; requesting renewal). Under separate notice, the NCS is also requesting an OMB generic clearance to conduct formative research featuring environmental, neurodevelopmental, and study logistic information collection. These separate and distinct generic clearances are requested to facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

*Background:*

The National Children's Study is a prospective, national longitudinal study of the interaction between environment, genetics on child health and development. The Study defines "environment" broadly, taking a number of natural and man-made environmental, biological, genetic, and psychosocial factors into account. By studying children through their different phases of growth and development, researchers will be better able to understand the role these factors have on health and disease. Findings from the Study will be made available as the research progresses, making potential benefits known to the public as soon as possible. The National Children's Study is led by a consortium of federal partners: The U.S. Department of Health and Human Services (including the Eunice Kennedy Shriver National Institute of Child Health and Human Development and the National Institute of Environmental Health Sciences of the National Institutes of Health and the Centers for Disease Control and Prevention), and the U.S. Environmental Protection Agency.

To conduct the detailed preparation needed for a study of this size and complexity, the NCS was designed to include a preliminary pilot study known as the Vanguard Study. The purpose of the Vanguard Study is to assess the feasibility, acceptability, and cost of the recruitment strategy, study procedures, and outcome assessments that are to be used in the NCS Main Study. The Vanguard Study begins prior to the NCS Main Study and will run in parallel with the Main Study. At every phase of the NCS, the multiple methodological studies conducted during the Vanguard phase will inform the implementation and analysis plan for the Main Study.

In this request, NCS is requesting approval from OMB for formative research activities relating to the collection, storage, management, and assay of biospecimen and physical measurements and accompanying questionnaires. The results from these formative research projects will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study biospecimen collection procedures and physical measurements in a manner that minimizes public information collection burden compared to burden anticipated if these projects were incorporated directly into either the NCS Vanguard or Main Study.

The NCS has obtained generic clearance for formative research activities pertaining to outreach, recruitment, and retention (0925–0590). Under separate notice, the NCS also requests an OMB generic clearance for formative research featuring environmental, neurodevelopmental, and study logistic information collection. These separate and distinct generic clearances are requested to facilitate the efficiency of submission and review of these projects as required by the OMB Office of Information and Regulatory Affairs.

*Frequency of Response:* Annual [As needed on an on-going and concurrent basis].

*Affected Public:* Members of the public, researchers, practitioners, and other health professionals.

*Type of Respondents:* Women of child-bearing age, infants, children, fathers, health care facilities and professionals, public health professional organizations and practitioners, and hospital administrators. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study.

*Annual Reporting Burden:* See Table 1. The annualized cost to respondents is estimated at: $600,000 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, BIOLOGICAL AND PHYSICAL MEASURES

| Data collection activity | | Type of respondent | Estimated number of respondents | Estimated number of responses per respondent | Average burden hours per response | Estimated total annual burden hours requested |
|---|---|---|---|---|---|---|
| Blood | Adult | NCS participants | 4,000 | 1 | 0.5 | 2,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.5 | 2,000 |
| | Infant/Child | NCS participants | 2,000 | 1 | 0.5 | 1,000 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.5 | 1,000 |
| Urine | Adult | NCS participants | 4,000 | 1 | 0.25 | 1,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.25 | 1,000 |
| | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Hair | Adult | NCS participants | 4,000 | 1 | 0.25 | 1,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.25 | 1,000 |
| Nails | Adult | NCS participants | 2,000 | 1 | 0.25 | 500 |

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, BIOLOGICAL AND PHYSICAL MEASURES—Continued

| Data collection activity | | | | | | |
|---|---|---|---|---|---|---|
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Cervical Fluid | Women | NCS participants | 4,000 | 1 | 0.5 | 2,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.5 | 2,000 |
| Breast Milk | Women | NCS participants | 4,000 | 1 | 0.5 | 2,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.5 | 2,000 |
| Cord Blood | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Meconium | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Placenta | Infant | NCS participants | 4,000 | 1 | 0.25 | 1000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 1 | 0.25 | 1000 |
| Length | Infant | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Height | Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Weight | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Head Circumference | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Middle Upper Arm Circumference | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Ulnar Length | Infant/Child | NCS participants | 2,000 | 1 | 0.25 | 500 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 0.25 | 500 |
| Small, focused survey and instrument design and administration | | NCS participants | 4,000 | 2 | 1 | 8,000 |
| | | Members of NCS target population (not NCS participants) | 4,000 | 2 | 1 | 8,000 |
| | | Health and Social Service Providers | 2,000 | 1 | 1 | 2,000 |
| | | Community Stakeholders | 2,000 | 1 | 1 | 2,000 |
| Focus groups | | NCS participants | 2,000 | 1 | 1 | 2,000 |
| | | Members of NCS target population (not NCS participants) | 2,000 | 1 | 1 | 2,000 |
| | | Health and Social Service Providers | 2,000 | 1 | 1 | 2,000 |
| | | Community Stakeholders | 2,000 | 1 | 1 | 2,000 |
| Cognitive interviews | | NCS participants | 500 | 1 | 2 | 1,000 |
| | | Members of NCS target population (not NCS participants) | 500 | 1 | 2 | 1,000 |
| Total | | | 113,000 | | | 60,000 |

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call non-toll free number (301) 496–1877 or E-mail your request, including your address to *glavins@mail.nih.gov.*

*Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 20, 2011.

**Sarah L. Glavin,**

*Deputy Director, Office of Science Policy, Analysis and Communications National Institute of Child Health and Human Development.*

[FR Doc. 2011–10170 Filed 4–26–11; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Peri-Menopause and Aging.

*Date:* May 16, 2011.
*Time:* 3 p.m. to 7 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. (Telephone Conference Call.)
*Contact Person:* Alicja L. Markowska, PhD, DSC, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Aging and Immunity.
*Date:* July 8, 2011.
*Time:* 12 p.m. to 3 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892. (Telephone Conference Call.)
*Contact Person:* Jeannette L. Johnson, PhD, Scientific Review Officer, National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *JOHNSONJ9@NIA.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: April 21, 2011.

**Anna P. Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–10219 Filed 4–26–11; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Advisory Dental and Craniofacial Research Council.
*Date:* May 23, 2011.
*Open:* 8:30 a.m. to 11:15 a.m.
*Agenda:* Report to the Acting Director.
*Place:* National Institutes of Health, Building 31C, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD 20892.
*Closed:* 1 p.m. to Adjournment.
*Agenda:* To review and evaluate grant applications.
*Place:* National Institutes of Health, Building 31C, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD 20892.
*Contact Person:* Alicia J. Dombroski, PhD, Director, Division of Extramural Activities, Natl Inst of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 21, 2011.

**Anna P. Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–10218 Filed 4–26–11; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a joint meeting of the Interagency Autism Coordinating Committee (IACC) Subcommittee on Safety and the IACC Services Subcommittee.

The IACC Subcommittee on Safety and Services Subcommittee will be having a joint in-person meeting on Thursday, May 19, 2011. The two subcommittees plan to discuss issues related to seclusion and restraint and autism spectrum disorder (ASD). The meeting will be open to the public and accessible through a conference call and live Webcast.

*Name of Committee:* Interagency Autism Coordinating Committee (IACC).
*Type of Meeting:* Subcommittee on Safety and Services Subcommittee Joint Meeting.
*Date:* May 19, 2011.
*Time:* 10 a.m. to 4 p.m. Eastern Time.
*Agenda:* The Services and Safety Subcommittees of the IACC plan to meet jointly to discuss issues related to seclusion and restraint and autism spectrum disorder (ASD).
*Place:* Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.
*Conference Call:* Dial: 888–577–8995. Access code: 1991506.
*Cost:* The meeting is free and open to the public.
*Webcast Live: http://videocast.nih.gov/.*
*Registration: http://www.acclaroresearch.com/oarc/5-19-11/.* Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis.
*Access:* White Flint Metro (Red Line)—approximately ½ mile walk. Parking at the hotel available with validation.
*Contact Person:* Ms. Lina Perez, Office of Autism Research Coordination, National Institute of Mental Health, NIH, 6001 Executive Boulevard, NSC, Room 8185a, Rockville, MD 20852. Phone: 301–443–6040. E-mail: *IACCPublicInquiries@mail.nih.gov.*

**Please Note:** The meeting will also be accessible to the public through a conference call-in number and webcast live. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the conference call or webcast, please e-mail *IACCTechSupport@acclaroresearch.com* or call the IACC Technical Support Help Line at 443–680–0098.

Individuals who participate by using this electronic service and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least 7 days prior to the meeting.

As part of security procedures, attendees should be prepared to present a photo ID at the meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Schedule subject to change.

Information about the IACC is available on the Web site: *http://www.iacc.hhs.gov.*

Dated: April 21, 2011.

**Anna P. Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–10213 Filed 4–26–11; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Neurological Disorders and Stroke Special Emphasis Panel, April 19, 2011, 3:15 p.m. to April 19, 2011, 7:15 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on April 1, 2011, 76 FR 18230.

The date and time of the meeting was changed to May 19, 2011, from 2 p.m.–6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: April 21, 2011.

**Anna P. Snouffer,**

*Deputy Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2011–10212 Filed 4–26–11; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3318–EM; Docket ID FEMA–2011–0001]**

### North Dakota; Amendment No. 2 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of North Dakota (FEMA–3318–EM), dated April 7, 2011, and related determinations.

**DATES:** *Effective Date:* April 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the State of North Dakota is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared an emergency by the President in his declaration of April 7, 2011.

Ransom County for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated April 20, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–10101 Filed 4–26–11; 8:45 am]

BILLING CODE 9111–23–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2011–0010]**

### Draft Programmatic Environmental Assessment for Hazard Mitigation Safe Room Construction

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** Under the Pre-Disaster Mitigation (PDM) Program and the Hazard Mitigation Grant Program (HMGP), the Federal Emergency Management Agency (FEMA) may provide funding to eligible applicants for eligible, feasible, and cost-effective activities that have the purpose of reducing or eliminating risks to life and property from hazards and their effects. One such activity is the construction and installation of safe rooms to protect populations from extreme wind events (*e.g.,* hurricane, tornado). FEMA has prepared a draft Programmatic Environmental Assessment (PEA) to address the potential impacts to the human environment resulting from the installation and construction of safe rooms. The purpose of the PEA is to facilitate FEMA's compliance with the National Environmental Policy Act (NEPA) by providing a framework to address the potential environmental impacts of this project type.

**DATES:** Comments on the draft Programmatic Environmental Assessment may be submitted on or before May 27, 2011.

**ADDRESSES:** You may submit comments, identified by Docket ID FEMA–2011–0010, by one of the following methods:

*Federal eRulemaking Portal: http://www.regulations.gov.* Search for docket ID FEMA–2011–0010 and follow the instructions for submitting comments.

*E-mail: FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2011–0010 in the subject line of the message.

*Fax:* 703–483–2999.

*Mail/Hand Delivery/Courier:* Legislation, Regulations, & Policy Division, Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

*Instructions:* All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the Privacy Notice link in the footer of *http://www.regulations.gov.*

*Docket:* For access to the docket to read the draft Programmatic Environmental Assessment or comments submitted by the public on this document, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for docket ID FEMA–2011–0010. These documents may also be inspected at FEMA, Office of Chief Counsel, Room 835, 500 C Street, SW., Washington, DC 20472–3100. In addition, the draft and final Programmatic Environmental Assessment and related documents will be accessible on FEMA's environmental documents page at *http://www.fema.gov/plan/envdocuments.shtm.*

**FOR FURTHER INFORMATION CONTACT:** Jomar Maldonado, Environmental Officer, Office of Environmental Planning and Historic Preservation, FEMA, at *jomar.maldonado@dhs.gov* or phone (202) 646–2741.

**SUPPLEMENTARY INFORMATION:**

#### Draft Programmatic Environmental Assessment for Hazard Mitigation Safe Room Construction

The purpose of the draft Programmatic Environmental Assessment (PEA) is to facilitate FEMA's compliance with the National

Environmental Policy Act (NEPA) by providing a framework to address the potential environmental impacts of safe room construction projects. The following five alternatives are considered in the PEA: No Action; Retrofit or Renovation of an Existing or Proposed Facility; Safe Room Connected to an Existing Building and Beyond Original Footprint; New Stand-Alone Construction in Previously Disturbed Areas; and New Stand-Alone Construction in Previously Undisturbed Areas.

The PEA also provides the public and decision-makers with the information required to understand and evaluate the potential environmental consequences of actions funded by FEMA. In addition to meeting the goals of impact identification and disclosure, the PEA addresses the need to streamline the NEPA review process in order to provide timely delivery of hazard mitigation assistance to communities in areas at risk of wind events.

The analysis presented in the PEA relies on FEMA's experience regarding environmental impacts that can be expected with activities involving construction, ground disturbance, removal of vegetation, and modification/retrofitting of existing structures. It is also based on a review of scientific literature, consultation with regulatory and resource agencies, and expert opinion. FEMA will consider the analysis in the PEA to determine whether a Finding of No Significant Impact (FONSI) or a Notice of Intent to Prepare an Environmental Impact Statement is appropriate for the action alternatives described and assessed in the PEA.

FEMA will use the PEA to evaluate the environmental impacts of grant-funded safe rooms. The PEA will also assist in determining when more site-specific information is needed and what level of environmental analysis and documentation is required for more complex projects to comply with NEPA.

**Authority:** National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4331 *et seq.;* 40 CFR 1500.1 *et seq.;* 44 CFR 10.1 *et seq.*

Dated: April 19, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–10096 Filed 4–26–11; 8:45 am]

**BILLING CODE 9111–A6–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1964–DR; Docket ID FEMA–2011–0001]**

### Oregon; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Oregon (FEMA–1964–DR), dated March 25, 2011, and related determinations.

**DATES:** *Effective Date:* April 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of Oregon is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 25, 2011.

Coos and Lincoln Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: April 20, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–10098 Filed 4–26–11; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–1962–DR; Docket ID FEMA–2011–0001]**

### New Mexico; Amendment No. 1 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of New Mexico (FEMA–1962–DR), dated March 24, 2011, and related determinations.

**DATES:** *Effective Date:* April 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster declaration for the State of New Mexico is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 24, 2011.

The Pueblos of Picuris, Pojoaque, San Felipe, and Santa Clara for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Dated: April 20, 2011.

**W. Craig Fugate,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2011–10102 Filed 4–26–11; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5480–N–37]**

### Notice of Submission of Proposed Information Collection to OMB; Quality Control Requirements for Direct Endorsement Lenders

**AGENCY:** Office of the Chief Information Officer, HUD

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is collected from Direct Endorsement lenders in order to meet FHA's quality control requirements in light of recent changes to lender eligibility criteria for participation in FHA programs.

**DATES:** *Comments Due Date:* May 27, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA-Submission@omb.eop.gov* fax: 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Quality Control Requirements for Direct Endorsement Lenders.

*OMB Approval Number:* 2502–Pending.

*Form Numbers:* None.

*Description of the Need for the Information and Its Proposed Use:* This information is collected from Direct Endorsement lenders in order to meet FHA's quality control requirements in light of recent changes to lender eligibility criteria for participation in FHA programs.

*Frequency of Submission:* On occasion.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden | 1,853 | 91.288 | | 0.541 | | 91,515 |

*Total Estimated Burden Hours:* 91,515.

*Status:* New Collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 21, 2011.

**Colette Pollard,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2011–10179 Filed 4–26–11; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5480–N–38]**

### Notice of Submission of Proposed Information Collection to OMB; Application for HUD/FHA Insured Mortgage "Hope for Homeowners"

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is collected on new mortgages offered by FHA approved mortgagees to mortgagors who are at risk of losing their homes to foreclosure. The new FHA insured mortgages refinance the borrowers existing mortgage at a significant write-down. Under the program the mortgagors share the newly created equity (Exit Premium) with FHA.

**DATES:** *Comments Due Date:* May 27, 2011.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0579) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA-Submission@omb.eop.gov* fax: 202–395–5806.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the

burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

*Title of Proposal:* Application for HUD/FHA Insured Mortgage "Hope for Homeowners".

*OMB Approval Number:* 2502–0579.

*Form Numbers:* HUD 92915, HUD 92900, HUD 92917 HFH.

*Description of the Need for the Information and its Proposed Use:* This information is collected on new mortgages offered by FHA approved mortgagees to mortgagors who are at risk of losing their homes to foreclosure. The new FHA insured mortgages refinance the borrowers existing mortgage at a significant write-down. Under the program the mortgagors share the newly created equity (Exit Premium) with FHA.

*Frequency of Submission:* On occasion.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden | 11,000 | 80.203 | | 0.165 | | 146,096 |

*Total Estimated Burden Hours:* 146,096.

*Status:* Extension without change of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 21, 2011.

**Colette Pollard,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2011–10181 Filed 4–26–11; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**[FWS–R9–R–2011–N082; 93261–1263–0000–4A]**

## Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; National Wildlife Refuge Special Use Permit Applications and Reports

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; request for comments.

**SUMMARY:** We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on April 30, 2011. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

**DATES:** You must submit comments on or before May 27, 2011.

**ADDRESSES:** Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, M/S 2042–PDM, Arlington, VA 22203 (mail), or *INFOCOL@fws.gov* (e-mail). Please include 1018–0102 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Hope Grey at *INFOCOL@fws.gov* (e-mail) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 1018–0102.

*Title:* National Wildlife Refuge Special Use Permit Applications and Reports, 50 CFR 25, 26, 27, 29, 30, 31, 32, and 36.

*Service Form Numbers:* FWS Form 3–1383–G; FWS Form 3–1383–C, and FWS Form 3–1383–R.

*Description of Respondents:* Individuals and households; businesses and other for-profit organizations; nonprofit organizations; farms; and State, local, or Tribal governments.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

| Activity | Number of respondents | Number of responses | Completion time per response | Total annual burden hours |
|---|---|---|---|---|
| Form 3–1383–G | 13,500 | 13,500 | ½ hour | 6,750 |
| Form 3–1383–C | 1,200 | 1,200 | 4 hours | 4,800 |
| Form 1383–R | 300 | 300 | 4 hours | 1,200 |
| Activity Reports | 600 | 600 | ½ hour | 300 |
| Totals | 15,600 | 15,600 | | 13,050 |

*Estimated Annual Nonhour Burden Cost:* $120,000 for fees associated with applications for commercial use activities.

*Abstract:* The administration and uses of national wildlife refuges and wetland management districts are governed by 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.
- Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act).
- Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) (ANILCA).

The Administration Act consolidated all of the different refuge areas into a single National Wildlife Refuge System (System). It also authorizes us to permit public accommodations, including

commercial visitor services, on lands of the System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. The Recreation Act allows the use of refuges for public recreation when it is not inconsistent or does not interfere with the primary purpose(s) of the refuge.

ANILCA provides specific authorization and guidance for the administration and management of national wildlife refuges within the State of Alaska. Its provisions provide for the issuance of permits by the System under certain circumstances.

We issue special use permits for a specific period as determined by the type and location of the use or visitor service provided. These permits authorize activities such as:

- Agricultural activities (haying and grazing, 50 CFR 29.1, 29.2 and 29.3).
- Beneficial management tools that we use to provide the best habitat possible on some refuges (50 CFR 30.11, 31.14, 31.16, and 36.41).
- Special events, group visits and other one-time events (50 CFR 25.41, 26.36, 25.61, and 36.41).
- Recreational visitor service operations (50 CFR 25.41, 25.61 and 36.41).
- Guiding for fishing, hunting, wildlife education, and interpretation (50 CFR 25.41 and 36.41).
- Commercial filming (50 CFR 27.71) and other commercial activities (50 CFR 29.1 and 36.41).
- Building and using cabins to support subsistence or commercial activities (in Alaska) (50 CFR 26.35, and 36.41).
- Research, inventory and monitoring, and other noncommercial activities (50 CFR 26.36 and 36.41).

Previously, we used FWS Form 3–1383 (Special Use Application and Permit) for all activities. However, experience has indicated that some types of activities, such as commercial use or research, require that we collect detailed information on the specific activity so that we can effectively manage the numerous uses of System lands. During the renewal process for this information collection, we realized that many refuges were collecting information not approved under the current collection. We are proposing three forms to correct this situation:

- FWS Form 3–1383–G (General Special Use Application and Permit).
- FWS Form 3–1383–C (Commercial Activities Special Use Application and Permit).
- FWS Form 3–1383–R (Research and Monitoring Special Use Application and Permit).

You may review the above forms and other documents associated with this information collection at *http//:www.reginfo.gov.*

The forms will serve as both the application and permit. They will not change the permitting process or what activities require a permit. They have been developed to ensure that:

- Applicants are aware of the types of information that may be needed for permit issuance and that the collection of this information is approved as required by the Paperwork Reduction Act of 1995.
- Requested activities are compatible and appropriate with the purpose(s) for which the refuge was established.
- Applicant is eligible or is the most qualified applicant to receive the special use permit.

We collect the necessary information in form and nonform format (through discussions in person or over the phone, over the Internet, by e-mail, or by letter). In some instances, respondents will be able to provide information verbally. Often, a simple e-mail or letter describing the activity will suffice. For activities (*e.g.,* commercial visitor services, research, *etc.*) that might have a large impact on refuge resources, we may require applicants to provide more detail on operations, techniques, and locations. Because of the span of activities covered by special use permits and the different management needs and resources at each refuge, respondents may not be required to answer all questions. Depending on the requested activity, refuge managers will have the discretion to ask for less information than appears on the proposed forms. However, refuge managers cannot ask for more or different information.

We issue permits for a specific period as determined by the type and location of the use or service provided. We use these permits to ensure that the applicant is aware of: (1) The requirements of the permit, and (2) his/her legal rights. Refuge-specific special conditions may be required for the permit. We identify conditions as an addendum to the permit. Most of the special conditions pertain to how a permitted activity may be conducted and do not require the collection of information. However, some special conditions, such as activity reports, before and after site photographs, or data sharing, would qualify as an information collection, and we have included the associated burden in the information collection request.

On November 29, 2010, we published a notice in the **Federal Register** (75 FR 73119) announcing our intent to request renewal of this information collection. We solicited public comment for 60 days, ending on January 28, 2011. We received comments from three individuals.

*Comment 1:* The U.S. Fish and Wildlife Service may require sufficiently detailed information to ensure requested activities are consistent with the National Wildlife Refuge System Administration Act, and that specifically tailored permit applications can theoretically reduce the burden on the applicant and expedite the permitting process. However, the extensive list of information associated with the Research Special Use Application and Permit is significantly greater than the requirements represented in the current FWS Form 3–1383. Conversely, there are no information requirements listed for the Commercial Special Use Application and Permit, making it unclear as to why the Service determined a separate form is necessary. Considering the importance of research and the significant role that commercial guiding, visitor services and cabins serve in the public's ability to access and experience Alaska's remote refuges, there is a need to ensure that information requests are appropriate and do not create an undue burden to applicants. The Service should disclose information requirements for both new forms, along with supporting rationale and an explanation as to why the current form will not suffice. Draft forms and accompanying instructions should be made available for public review.

*Response:* The list of information collection requirements published in the 60-day notice (75 FR 73119) pertains to all three proposed forms, not just the proposed Research and Monitoring Special Use Application and Permit.

Prior to November 2009, Alaska refuges used FWS Form 3–2001 (approved under OMB Control No. 1018–0014) as the special use application. OMB Control No. 1018–0014 was discontinued in November 2009, and the Alaska refuges began using FWS Form 3–1383 (approved under OMB Control No. 1018–0102), which is the special use application used by refuges in the contiguous United States. During the renewal process, we discovered that the current FWS Form 3–1383 is inadequate for the many types of permitted activities, which has resulted in several situations where unauthorized information collections have taken place, both in Alaska and the rest of the States.

We have made every effort to carefully craft the new forms so that they are targeted to specific uses and only collect information that is necessary to manage and protect refuge resources. We designed the forms for use by all refuges in the National Wildlife Refuge System. The proposed forms ask for information that refuges need to manage the full span of uses that the public may need. The forms also allow refuge manager discretion as to what specific information is required. We can ask for less information than requested on the forms, but cannot ask for more or different information. This discretion will lessen the burden on applicants. The proposed forms encourage applicants to contact the appropriate refuge to determine exactly what information is required.

We sent draft forms to the two commenters from Alaska and made extensive changes to the forms based on their input. In addition, this **Federal Register** notice provides the public an additional opportunity to review and comment on the forms.

*Comment 2:* Regarding research conducted by the State fish and wildlife agencies, including the Alaska Department of Fish and Game, the Service should acknowledge that State fish and wildlife and other administrative actions are exempt from this information collection process. The States, including Alaska under ANILCA 1314 and 43 CFR part 24, need not apply for special use permits from the Service when conducting routine activities covered under a valid cooperative agreement.

*Response:* We agree with this comment. This information collection request does not change when a special use permit is required; it only pertains to what information we can collect when a permit is necessary.

*Comment 3:* In designated Wilderness Areas, a minimum requirement analysis may be necessary for activities generally prohibited under the Wilderness Act; however, this process is distinct from a special use permit.

*Response:* We agree with this comment. We will conduct the minimum requirement analysis as part of our permit review process.

*Comment 4:* The Citizens' Advisory Commission on Federal Areas believes strongly that permits for the use of public lands and resources should be required only when and where absolutely necessary. The Commission recognizes that permits are appropriate for certain activities and can be an important management tool, and supports any action that reduces the amount of paperwork necessary to secure those permits.

*Response:* We agree and will issue the permits only when required by statute or regulation.

*Comment 5:* Although the current proposal would increase the number of forms from one to three, it appears that, depending on the activity being permitted, information requirements can be focused more narrowly than is possible with the existing application form. One problem with the Alaska form was that applicants were required to provide information that was unnecessary or irrelevant to the activity being permitted. Requiring an applicant to submit only pertinent information eases the burden on the public. While there may have been problems with the Alaska application form, replacing that form with the more generalized versions could result in similar unnecessary information requests and additional burdens to the public unless those forms are carefully crafted.

*Response:* Please see our response to Comment 1.

*Comment 6:* ANILCA provides specific authorization and guidance for the management of refuges in Alaska. The statutory provisions in ANILCA are implemented, in part, by the regulations at 50 CFR 36.41. The information requests included in any revised application form for a special use permit on an Alaskan refuge must incorporate the guidance found in these regulations. The need for any additional information or reporting requirements must be fully supported.

*Response:* The information collected on the proposed forms is consistent with the regulations implementing ANILCA.

*Comment 7:* The regulations at 50 CFR 36.41(d)(2) allow an applicant for a noncompetitively issued permit to present an application verbally. The application process must continue to accommodate verbal applications as provided for in the regulations.

*Response:* We agree and have added instructions on the form that an application may be made verbally. The new forms will not change the application process or regulatory requirements. We are proposing these forms to ensure that the information we collect is approved in accordance with the Paperwork Reduction Act of 1995.

*Comment 8:* Other Alaska specific regulations at 50 CFR 36.31, 36.32, 36.33, 36.37, and 36.39 provide some of the authorities and procedures for allowing permits on refuges. Any information requests associated with the new forms must be limited to that necessary to meet the requirements in these regulations for refuges in Alaska.

*Response:* We agree and will collect only the minimum information necessary to issue the requested permit in accordance with applicable regulations.

*Comment 9:* It is difficult to fully assess the full benefits from this proposal without being able to review the actual application forms and associated questions. Information in the **Federal Register** (75 FR 73119) provides only a partial list of the types of information to be collected, and only a few specific examples of which application form will be used to permit a particular activity. For example, the Commercial Special Use Application and Permit is proposed to be used for permitting recreational visitor service operations and building and using cabins to support subsistence or commercial activities in Alaska. The information that an applicant should be reasonably expected to provide to construct or use a cabin for subsistence activities would be significantly different than that necessary to construct a cabin to support a commercial activity.

*Response:* We sent draft forms to the two commenters from Alaska and made extensive changes to the forms based on their input. We have developed form-specific instructions that provide discretion for refuge managers on what specific information will be required for each use.

*Comment 10:* How will an applicant be advised of what information is required for their application? Is this left to the individual refuge manager or will there be national or regional guidance provided? Will instructions for completing the application be provided to the applicant? There have been situations in Alaska where applicants seeking permits for the same activity in more than one refuge are required to provide different types of information to each refuge. While refuge managers may have different management needs and requirements, lack of uniformity can increase the information collection burden on applicants. Clear guidance should be provided to Regional Offices and individual refuge managers to avoid confusion and prevent arbitrary and unnecessary information collection.

*Response:* We urge applicants, both on our Web sites and on the proposed forms, to contact the appropriate refuge to determine what information they need to submit for their desired permit. There are instructions and explanations on each form, but the forms are designed to cover many activities on all

of our refuges. Depending on the activity requested and the differing management needs of refuges, there may be instances where an applicant has to submit more or less information for the same activity. These instances should be minimal, and, in no case, can a refuge manager ask for information that is not on the application. Rather than following a "one form fits all approach," we believe that allowing refuge managers the discretion to determine the level of information necessary to issue the permit will result in reducing the burden for applicants. If OMB approves the three proposed forms, we will issue guidance to Regional Offices and refuge managers that: (1) they must collect only the minimum information necessary to determine whether or not to issue a permit, and (2) they cannot collect any information that is not on the approved forms.

*Comment 11:* Grazing is never beneficial to wildlife, and no agricultural activity should be allowed on national wildlife refuges. Guides should not be allowed on national wildlife refuges. Taking people out to kill wildlife should not happen.

*Response:* The Administration Act authorizes us to permit public accommodations, including commercial visitor services, on lands of the System when we find that the activity is compatible and appropriate with the purpose for which the refuge was established. While we appreciate the views of the respondent, the comment did not address the information collection requirements. We did not make any changes to our information collection request based on this comment.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: April 21, 2011.

**Tina A. Campbell,**

*Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.*

[FR Doc. 2011–10167 Filed 4–26–11; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R2–ES–2010–N282; 20124–1112–0000–F2]**

### Intent To Prepare a Draft Environmental Impact Statement and Associated Documents for Development in Bexar County and the City of San Antonio, TX

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent; announcement of public scoping meetings; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to prepare a draft Environmental Impact Statement (EIS) to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit (ITP)under the Endangered Species Act of 1973, as amended (Act), to Bexar County, Texas, and the City of San Antonio, Texas (applicants). The ITP would authorize incidental take of five Federally listed species resulting from residential, commercial, and other development activities associated with the proposed Southern Edwards Plateau (SEP) Regional Habitat Conservation Plan (RHCP), which includes Bexar and surrounding counties. We also announce plans for a series of public scoping meetings throughout the proposed plan area and the opening of a public comment period.

**DATES:** Written comments on alternatives and issues to be addressed in the draft EIS must be received by July 26, 2011. Public scoping meetings will be held at various locations throughout the proposed seven-county plan area. Public scoping meetings will be held between May1, 2011 and June 15, 2011. Exact meeting locations and times will be announced in local newspapers and on the Service's Austin Ecological Services Office Web site, *http://www.fws.gov/southwest/es/AustinTexas/,* at least 2 weeks prior to each meeting.

**ADDRESSES:** To request further information or submit written comments, use one of the following methods, and note that your information request or comment is in reference to the SEP RHCP/EIS:

- *E-mail: Allison Arnold@fws.gov;*
- *U.S. Mail:* Field Supervisor, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758–4460;
- *Telephone:* 512/490–0057; or
- *Fax:* 512/490–0974.

**SUPPLEMENTARY INFORMATION:** This notice is published in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1506.6), and section 10(c) of the Act (16 U.S.C. 1531 *et seq.*). The Service intends to gather the information necessary to determine impacts and alternatives to support a decision regarding the potential issuance of an ITPto the applicants under section 10(a)(1)(B) of the Act, and the implementation of the supporting draft RHCP.

The applicants propose to develop an RHCP as part of their application for an ITP. The proposed RHCP will include measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of potential proposed taking of Federally listed species and the habitats upon which they depend, resulting from residential, commercial, and other development activities within the proposed plan area, to include Bexar and surrounding counties.

### Background

Section 9 of the Act prohibits taking of fish and wildlife species listed as endangered or threatened under section 4 of the Act. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The term "harm" is defined in the regulations as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term "harass" is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). However, the Service may, under specified circumstances, issue permits that allow the take of Federally listed species, provided that the take that occurs is incidental to, but not as the purpose of,

an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively.

Section 10(a)(1)(B) of the Act contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) the applicants will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicants will develop a draft RHCP and ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicants will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the RHCP.

Thus, the purpose of issuing a programmatic ITP is to allow the applicants, under their respective City or County authority, to authorize development while conserving the covered species and their habitats. Implementation of a programmatic multispecies habitat conservation plan, rather than a species-by-species/project-by-project approach, will maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the applicants' proposed seven-county plan area. The Service expects that the applicants will request ITP coverage for a period of 30 years.

**Scoping Meetings**

The purpose of scoping meetings is to provide the public with a general understanding of the background of the proposed RHCP and activities that would be covered by the draft RHCP, alternative proposals under consideration for the draft EIS, and the Service's role and steps to be taken to develop the draft EIS for the draft RHCP.

The meeting format will consist of a 1-hour open house prior to the formal scoping meeting. The open house format will provide an opportunity to learn about the proposed action, permit area, and species covered. The open house will be followed by a formal presentation of the proposed action, summary of the NEPA process, and presentation of oral comments from the public. A court reporter will be present at each meeting, and an interpreter will be present when deemed necessary. The primary purpose of these meetings and public comment period is to solicit suggestions and information on the scope of issues and alternatives for the Service to consider when drafting the EIS. Oral and written comments will be accepted at the meetings. Comments can also be submitted to persons listed in the **ADDRESSES** section. Once the draft EIS and draft RHCP are completed and made available for review, there will be additional opportunity for public comment on the content of these documents through an additional public hearing and comment period.

**Alternatives**

The proposed action presented in the draft EIS will be compared to the No-Action alternative. The No-Action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared. Other alternatives considered, including impacts associated with each alternative evaluated, will also be addressed in the draft EIS.

*No-Action Alternative*

Because the proposed covered activities (development activities) are vital in providing services to accommodate future population growth, energy, and infrastructure demand, these activities would continue regardless of whether a 10(a)(1)(B) permit is requested or issued. The applicants would continue to avoid and minimize impacts to protected species' habitat. Where potential impacts to Federally protected species within the proposed permit area could not be avoided, they would be minimized and mitigated through individual formal or informal consultation with the Service, when applicable, or applicants would potentially seek an individual section 10(a)(1)(B) ITP on a project-by-project basis. Although future activities by the applicants would be similar to those covered by the RHCP, not all activities would necessitate an incidental take permit or consultation with the Service. Thus, under this alternative, numerous individual section 10(a)(1)(B) permit applications would likely be filed over the 30-year project period. This project-by-project approach would be more time-consuming and less efficient; and could result in an isolated independent mitigation approach.

*Proposed Alternative*

The proposed action is the issuance of an ITP for the covered species for development activities within the proposed permit area for a period of 30 years. The proposed RHCP, which must meet the requirements of section 10(a)(2)(A) of the Act by providing measures to minimize and mitigate the effects of the potential incidental take of covered species to the maximum extent practicable, would be developed and implemented by the applicants. This alternative could allow for a comprehensive mitigation approach for unavoidable impacts and reduce the permit processing effort for the Service.

Activities proposed for coverage under the proposed permit will be otherwise lawful activities that would occur consistent with the RHCP and include, but are not limited to: (1) Construction, use, and/or maintenance of public or private land development projects, (*e.g.,* single- and multi-family homes, residential subdivisions, farm and ranch improvements, commercial or industrial projects, government offices, and park infrastructure); (2) construction, maintenance, and/or improvement of roads, bridges, and other transportation infrastructure; (3) installation and/or maintenance of utility infrastructure (*e.g.* transmission or distribution lines and facilities related to electric, telecommunication, water, wastewater, petroleum or natural gas, and other utility products or services); (4) the construction, use, maintenance, and/or expansion of schools, hospitals, corrections or justice facilities, and community service development or improvement projects; (5) construction, use, or maintenance of other public infrastructure and improvement projects (*e.g.,* projects by municipalities, counties, school districts); (6) any management activities that are necessary to manage potential habitat for the covered species within the RHCP system that could temporarily result in incidental take; and (7) the construction, use, maintenance and/or expansion of quarries, gravel mining, or other similar extraction projects.

It is anticipated that the following species will be included as covered species in the RHCP: The golden-cheeked warbler (*Dendroica chrysoparia*), black-capped vireo (*Vireo atricapilla*), Madla Cave meshweaver (*Cicurina madla*), and two ground beetle species, each of which has no common name (*Rhadine exilis* and *Rhadine infernalis*). For these covered species, the applicants would seek incidental take authorization. Six Federally listed endangered species have been recommended for inclusion as covered species: Robber Baron Cave meshweaver (*Cicurina baronia*), Bracken Bat Cave meshweaver (*Cicurina venii*), Government Canyon Bat Cavemeshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Cokendolpher Cave harvestman (*Texella*

*cokendolpheri*), and Helotes mold beetle (*Batrisodes venyivi*). Seven additional species have been identified as potentially affected by the proposed covered activities and maybe considered for inclusion in the RHCP: Whooping crane (*Grus americana*), big red sage (*Salvia penstemonoides*), to busch fishhook cactus (*Sclerocactus brevihamatus* ssp *tobuschii*), bracted twistflower (*Streptanthus bracteatus*), golden orb (*Quadrula aurea*), Texas pimpleback (*Quadrula petrina*), and Texas fatmucket (*Lampsilis bracteata*). Incidental take authorization for these additional species may be necessary during the term of the ITP. Inclusion of these species will be determined during the RHCP planning and development process. The RHCP may include conservation measures to benefit these species, where practicable, and support research to help fill data gaps regarding the biology, habitat, distribution, and/or management of these species, even if incidental take coverage is not requested under the ITP.

Candidate and Federally listed species not likely to be taken by the covered activities, and therefore not covered by the proposed ITP, may also be addressed in the draft RHCP to explain why the applicants believe these species will not be taken.

Counties included in the proposed permit area are Bexar, Medina, Bandera, Kerr, Kendall, Blanco, and Comal Counties.

**Public Availability of Comments**

Written comments we receive become part of the public record associated with this action. 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 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.

**Environmental Review**

The Service will conduct an environmental review to analyze the proposed action, as well as other alternatives evaluated and the associated impacts of each. The draft EIS will be the basis for the impact evaluation for each species covered and the range of alternatives to be addressed. The draft EIS is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources, such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, and environmental justice.

Following completion of the environmental review, the Service will publish a notice of availability and a request for comment on the draft EIS and the applicants' permit application, which will include the draft RHCP. The draft EIS and draft RHCP are expected to be completed and available to the public in late 2011.

**Joy E. Nicholopoulos,**

*Acting Regional Director, Region 2, Albuquerque, New Mexico.*

[FR Doc. 2011–10143 Filed 4–26–11; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–FHC–2011–N083; 81331–1334–8TWG–W4]**

### Trinity Adaptive Management Working Group

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** The Trinity Adaptive Management Working Group (TAMWG) affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River (California) restoration efforts to the Trinity Management Council (TMC). The TMC interprets and recommends policy, coordinates and reviews management actions, and provides organizational budget oversight. This notice announces a TAMWG meeting, which is open to the public.

**DATES:** TAMWG will meet from 9 a.m. to 5 p.m. on Tuesday, May 17, 2011.

**ADDRESSES:** The meeting will be held at the Weaverville Victorian Inn, 1709 Main Street, Weaverville, CA 96093.

**FOR FURTHER INFORMATION CONTACT:** *Meeting Information:* Randy A. Brown, TAMWG Designated Federal Officer, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521; telephone: (707) 822–7201. *Trinity River Restoration Program (TRRP)Information:* Jennifer Faler, Acting Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, CA 96093; telephone: (530) 623–1800; e-mail: *jfaler@usbr.gov.*

**SUPPLEMENTARY INFORMATION:** Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the TAMWG.The meeting will include discussion of the following topics:

- TRRP FY 2012 budget and work plan,
- Temperature and reservoir management and recent CVO letter,
- Acting Executive Director's Report,
- Policies for work in tributary watersheds,
- Initial report on peak releases,
- Channel rehabilitation phase II planning update,
- TMC chair report,
- TAMWG bylaws, and
- Designated Federal Officer topics.

Completion of the agenda is dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed.

Dated: April 21, 2011.

**Joseph Polos,**

*Supervisory Fishery Biologist, Arcata Fish and Wildlife Office, Arcata, CA.*

[FR Doc. 2011–10141 Filed 4–26–11; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Final Determination Against Federal Acknowledgment of the Choctaw Nation of Florida

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of Final Determination.

**SUMMARY:** Notice is hereby given that the Department of the Interior (Department) declines to acknowledge that the group known as the "Choctaw Nation of Florida" (CNF, formerly known as the Hunter Tsalagi-Choctaw Tribe), Petitioner #288, c/o Mr. Alfonso James, Jr., Post Office Box 6322, Marianna, Florida 32447, is an American Indian group that exists as an Indian tribe under Department procedures. This notice is based on a determination that the petitioner does not meet one of the seven mandatory criteria set forth in 25 CFR 83.7, specifically criterion 83.7(e), descent from a historical Indian tribe, and therefore, the Department may not acknowledge the petitioner under 25 CFR part 83. Based on the limited nature and extent of comment and consistent with previous practices, the Department did not produce a detailed report or other summary under the criteria pertaining to this FD. This notice is the Final Determination (FD).

**DATES:** This determination is final and will become effective 90 days from

publication of this notice in the **Federal Register** on July 26, 2011, according to section 83.10(l)(4), unless a request for reconsideration is filed with the Interior Board of Indian Appeals according to section 83.11.

**ADDRESSES:** Requests for a copy of the **Federal Register** notice should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B–SIB, Washington, DC 20240. The **Federal Register** notice is also available through *http://www.bia.gov/WhoWeAre/AS-IA/OFA/RecentCases/index.htm.*

**FOR FURTHER INFORMATION CONTACT:** R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

**SUPPLEMENTARY INFORMATION:** On July 2, 2010, the Department issued a proposed finding (PF) that the CNF petitioner was not an American Indian group that exists as an Indian tribe under Department procedures because the petitioner did not meet one of the seven mandatory criteria for Federal acknowledgment as an Indian tribe, criterion 83.7(e). This criterion requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. The review of the evidence for the proposed finding clearly established that the petitioner did not meet criterion 83.7(e) and the Department issued a proposed finding denying acknowledgment under that one criterion (83.10(e)(1)). The Department published a notice of the PF in the **Federal Register** on July 12, 2010 (75 FR 39703). Publishing notice of the PF initiated a 180-day comment period during which time the petitioner and interested and informed parties could submit arguments and evidence to support or rebut the PF. In response to the PF, the petitioner or third parties must provide evidence for the FD that the petitioner meets the criterion in question under the standard set forth at 25 CFR 83.6(d). This initial comment period ended on January 10, 2011.

By letter dated January 3, 2011, the petitioner's attorney submitted on the petitioner's behalf copies of 44 documents consisting of 74 pages described as "additional information" for the Department "to consider in making its final decision." The Department received these comments on January 6, 2011, before the close of the comment period on January 10, 2011. The petitioning group did not provide any narrative or thorough explanation regarding the relevance of these documents to criterion 83.7(e). The petitioner did not submit any changes to its most current membership list of 77 individuals. The Department analyzed the submitted documents as the group's comments on the PF. The Department did not receive comments from any party other than the petitioner. After the close of the applicable comment periods, the Department received an additional comment from the petitioner's attorney. In accord with the regulations, the Department did not consider this unsolicited comment in the preparation of the FD (83.10(l)(1)).

The petitioner claims to be a group of Choctaw Indians that migrated from North Carolina to Georgia and then Florida following the Choctaw Indian removal of the 1830s. None of the evidence in the record for the PF demonstrated the validity of this claim. None of the evidence in the record for the PF demonstrated the petitioner's members or claimed ancestors descended from a Choctaw Indian tribe or any other Indian tribe. The petitioner did not submit any materials in its submission for the FD that established, by the standard set forth at 83.6(d), descent from a historical Indian tribe as required by criterion 83.7(e).

Of the 44 documents the petitioner submitted for the FD, 37 were previously submitted and analyzed for the PF. Only seven of the documents were new submissions, and six of them did not provide evidence for documenting descent from a historical tribe as required by criterion 83.7(e). Of these six documents, the first described statutes of 1852, 1898, and 1902; the second was a one-sentence description of "Fort Chippola"; the third briefly described the courthouse history of Walton County, Florida; the fourth described the Choctawhatchee River; the fifth was a two-page list of Choctaw villages transcribed for the Internet from the *Handbook of American Indians North of Mexico* (1907); and the sixth described United States Code, Title 18, Section 1164, "Destroying boundary and warning signs." None of these documents provides descent evidence linking members of the petitioner to a historical Indian tribe.

Only one document received from the petitioner in the comment period had any bearing on criterion 83.7(e): A Dawes Commission Roll index entry for a Lucy Pope. The Department finds this evidence insufficient to document the required descent for the petitioner under criterion 83.7(e) for the following reasons.

For the PF, the Department determined that most of the current group's members descend from a Burton Hunter (b.ca. 1836–1842) and his wife Lucy (b.ca. 1844–1850) whose maiden name was not documented. The petitioner claimed Lucy's last name was "Pope" and submitted for the PF two Federal census entries in an attempt to support its theory: An 1860 Federal census entry for an "L. Pope" of South Carolina and an 1870 Federal census entry for a "Lucy Pope" of Florida. Evaluation presented in the PF demonstrates that the census entries pertained to two women, neither of whom could have been the wife of Burton Hunter. Further, the PF found no evidence in the record that Burton Hunter's wife Lucy was a Pope or that either he or Lucy descended from a historical Choctaw Indian tribe or any other Indian tribe.

For the FD, the petitioner submitted a two-page index from an Internet Web site that listed a Lucy Pope among some Choctaw Indians whose names appeared on the 1898–1914 Dawes Commission Roll. The petitioner placed an asterisk next to the entry for Lucy Pope, Roll No. 8626. The Department believes the petitioner is using this annotation to advance a claim that the Dawes Commission, a Federal organization that Congress authorized in 1893, had enrolled one of its claimed ancestors as a member of the Choctaw Nation in Indian Territory (now Oklahoma).

The Department examined the evidence behind the Dawes Commission Roll index reference and found that the enrolled Choctaw Lucy Pope is different from Burton Hunter's documented wife Lucy and different from both of the Pope women the petitioner claimed as Burton Hunter's wife. As explained in the PF, Burton Hunter's wife Lucy was born around 1842 in Florida and died in 1907 in Florida. The "L. Pope" the petitioner claimed as Burton Hunter's wife, citing the 1860 Federal census of South Carolina, was born between 1831 and 1833 in South Carolina, and the other "Lucy Pope" claimed as Burton Hunter's wife, citing the 1870 Federal census of Florida, was born about 1832 in Florida. In contrast, the Dawes Commission enrollment record for a Lucy Pope, Roll No. 8626 on Census Card #2933, submitted by the petitioner for the FD, shows that this Lucy Pope was born around 1878, her maiden name was Sam, and she was married to a Pope. She appeared on the 1910 Federal Census as living with her family in Pittsburg County, Oklahoma. Therefore, this Lucy (Sam) Pope (b. 1878–d.aft. 1910) is not the same person as any of the three women analyzed in the PF as the wife of Burton Hunter: L. Pope (b. 1831–1833 SC), Lucy Pope (b. 1832 FL) or Lucy [—?—] Hunter (b. 1842

FL) (documented wife of Burton Hunter).

In the PF, the Department discussed in detail Lucy [—?—] Hunter as well as the L. Pope and Lucy Pope the petitioner claimed as the wife of Burton Hunter. None of the evidence for the PF demonstrated any descent from a historical Choctaw Indian tribe or other historical Indian tribe for Lucy Hunter or the other Pope women the petitioner claimed. The evidence behind the Dawes Commission Roll index reference pertains to a Lucy Pope who is not the petitioner's claimed ancestor although her married name is the same as that of two individuals previously analyzed in the PF. Therefore, the Dawes Commission Roll evidence does not demonstrate Indian ancestry for Burton Hunter's documented wife Lucy or either of the Pope women whom the petitioner claimed as the wife of its ancestor Burton Hunter.

None of the material submitted for the FD changes the conclusions of the PF that the petitioner does not meet the requirements of criterion 83.7(e), which requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity.

To summarize, the petitioner claims to have descended as a group from a historical tribe of Choctaw Indians. There is no primary or reliable secondary evidence submitted by the petitioner or located by the Department showing that any of the named ancestors or members of the group descended from a historical Choctaw Indian tribe or any other Indian tribe. None of the documentation on the petitioner's members and their claimed individual ancestors, submitted by the petitioner or found by the Department's researchers, supports the petitioner's claim of descent from a historical Choctaw Indian tribe or any other Indian tribe. No document in the record identified the petitioner's members and claimed ancestors as part of the historical Choctaw or other Indian tribe. In fact, the evidence shows the petitioner's members and claimed ancestors were consistently identified as non-Indians living in non-Indian communities. The extensive evidence in the record does not demonstrate descent from any historical Indian tribe.

The Department declines to acknowledge the CNF petitioner as an Indian tribe because the evidence in the record does not demonstrate, by the standard set forth at 25 CFR 83.6(d), that the membership descends from a historical Indian tribe as required by mandatory criterion 83.7(e).

After the publication of notice of the FD, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures set forth in section 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the **Federal Register**. The FD will become final and effective as provided in the regulations 90 days from the **Federal Register** publication, unless a request for reconsideration is received within that time.

Dated: April 21, 2011.

**Larry Echo Hawk,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2011–10117 Filed 4–26–11; 8:45 am]

**BILLING CODE 4310–G1–P**

---

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Backcountry Management Plan, Environmental Impact Statement, Grand Canyon National Park, Arizona

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement for the Backcountry Management Plan, Grand Canyon National Park.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the National Park Service (NPS) is preparing an Environmental Impact Statement for the Backcountry Management Plan for Grand Canyon National Park. This plan will help guide park decisions on protecting natural and cultural resources while providing for a variety of visitor opportunities to experience the park's backcountry. Over 94% of the park has been proposed as wilderness, and an updated plan is needed to comply with NPS wilderness policy and other policies. A range of reasonable alternatives for managing the park's backcountry will be developed, with public input, through this planning process and will include, at a minimum, a no-action and an agency preferred alternative.

Major issues the plan will address include visitor access and use of the park's backcountry, levels of commercial services, levels of administrative and scientific research activities, management of natural and cultural resources, and the protection of wilderness character. The National Park Service will identify additional issues to be addressed through public scoping.

A scoping newsletter is being prepared that details the issues identified to date. Copies of that information will be made available on NPS Planning, Environment, and Public Comment (PEPC) at *http://parkplanning.nps.gov/grca.*

**DATES:** The Park Service will accept comments from the public through June 27, 2011. Public meetings will occur in Flagstaff and Grand Canyon, Arizona and other locations to be determined. Specific dates, times, and locations will be announced in the local media and on the internet at *http://parkplanning.nps.gov/grca.*

**ADDRESSES:** Information will be available for public review and comment online at *http://parkplanning.nps.gov/grca,* in the Office of the Superintendent, Jane Lyder, 1 Village Loop, Grand Canyon, Arizona 86023, 928–638–7945, or in the Office of Planning and Compliance, 1 Village Loop, Grand Canyon, Arizona 86023.

**FOR FURTHER INFORMATION CONTACT:** Jane Lyder, Acting Superintendent, P.O. Box 129, Grand Canyon, Arizona, 86023, 928–638–7945, *Jane_Lyder@nps.gov* or Rachel Bennett, Environmental Protection Specialist, P.O. Box 129, Grand Canyon, Arizona 86023, 928–638–7326, *Rachel_Bennett@nps.gov.*

**SUPPLEMENTARY INFORMATION:** If you wish to comment on the scoping newsletter or on any other issues associated with the plan, you may submit your comments by any one of several methods. You may comment via the Internet at *http://parkplanning.nps.gov/grca.* If you do not have access to a computer, you may mail comments to Jane Lyder, Acting Superintendent, P.O. Box 129, Grand Canyon, AZ 86023. Finally, you may hand-deliver comments to Grand Canyon National Park Headquarters, 1 Village Loop, Grand Canyon, AZ.

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: March 3, 2011.

**John Wessels,**

*Director, Intermountain Region, National Park Service.*

[FR Doc. 2011–10118 Filed 4–26–11; 8:45 am]

**BILLING CODE 4312–ED–P**

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–770]**

### In the Matter of Certain Video Game Systems and Wireless Controllers and Components Thereof; Notice of Institution of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 21, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Creative Kingdoms, LLC of Wakefield, Rhode Island and New Kingdoms, LLC of Nehalem, Oregon. 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 video game systems and wireless controllers and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,500,917 ("the '917 patent"); U.S. Patent No. 6,761,637 ("the '637 patent"); U.S. Patent No. 7,850,527 ("the '527 patent"); and U.S. Patent No. 7,896,742 ("the '742 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request 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:** The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

*Authority:* The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on April 19, 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 video game systems and wireless controllers and components thereof that infringe one or more of claims 1–7 of the '917 patent; claims 1, 2, 7, 11, 14, 17, and 72 of the '637 patent; claims 1–12, 17–19, 22–24, 27, 37–41, 45–50 of the '527 patent; and claim 24 of the '742 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 complainants are:

Creative Kingdoms, LLC, 195 Walden Way, Wakefield, RI 02879.

New Kingdoms, LLC, 17005 Miami Forest Road, Nehalem, OR 97131.

(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:

Nintendo Co., Ltd., 11–1 Kamitoba hokotate-cho, Minami-ku, Kyoto 601–8501, Japan.

Nintendo of America, Inc., 4820 150th Avenue, NE., Redmond, WA 98052.

(c) The 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: April 20, 2011.

By order of the Commission.

**James R. Holbein,**

*Acting Secretary to the Commission.*

[FR Doc. 2011–10100 Filed 4–26–11; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on April 12, 2011, a proposed Consent Decree was lodged with the United States District Court for the Eastern District of Wisconsin in *United States* v. *Waste Management of Wisconsin, Inc., et al.,* Civil Action No. 2:11–cv–00346–WEC.

In this action, the United States asserted claims against thirty-eight parties for recovery of response costs incurred by the United States in connection with the Muskego Sanitary Landfill Superfund Site (the "Site") in Muskego, Wisconsin, pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9606 and

9607. The proposed Consent Decree would resolve claims that the United States has asserted against all defendants.

Under the proposed Consent Decree, a group of four "Performing Settling Defendants" will implement remedial measures at the Site consistent with an Explanation of Significant Differences issued by the United States Environmental Protection Agency ("U.S. EPA") on September 13, 2010. These remedial measures will include: (1) Evaluation of potential measures to optimize performance of the previously-implemented source control remedy at the Site and implementation of any appropriate source control remedy enhancements; (2) development and implementation of an Institutional Control Implementation and Assurance Plan; and (3) completing a three-year evaluation of the effectiveness of monitored natural attenuation as a means of achieving groundwater cleanup standards at the Site. Following completion of the monitored natural attenuation study, if U.S. EPA determines that monitored natural attenuation is not appropriate for this Site, Performing Settling Defendants will evaluate alternative groundwater remedies and implement an alternative groundwater remedy selected by EPA. Under the proposed decree, Performing Settling Defendants will also pay $985,000 to the Hazardous Substances Superfund to reimburse response costs incurred by the United States through January 31, 2010 in connection with the Site, and they will reimburse all response costs incurred by the United States after January 31, 2010 in connection with the Site.

The remaining 34 defendants, "De Minimis Settling Defendants," will resolve their potential liability with respect to the Site in accordance with Section 122(g) of CERCLA, 42 U.S.C. 9622(g), through specified payments that will be used by Performing Settling Defendants to pay for costs incurred pursuant to the Consent Decree.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Waste Management of Wisconsin, Inc., et al.,* DJ # 90–11–3–09747.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Wisconsin, 530 Federal Building, 517 East Wisconsin Avenue, Milwaukee, WI 53202 and at U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_ Decrees.html.* A copy of the Consent Decrees may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Consent Decree from the Consent Decree Library, please enclose a check in the amount of $82.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen M. Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, United States Department of Justice.*

[FR Doc. 2011–10069 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Notice of Filing of Consent Decree Pursuant to the Clean Water Act ("CWA")

Notice is hereby given that on April 20, 2011, a proposed Consent Decree in *United States* v. *P4 Production L.L.C.,* No. 11–00166–REB, was lodged in the United States District Court for the District of Idaho. The Consent Decree settles the United States' claims alleged in the Complaint pursuant to Section 309 of the Clean Water Act (CWA), 33 U.S.C. 1319. The Complaint relates to P4's South Rasmussen Mine, which is in southeast Idaho about 20 miles northeast of Soda Springs. The Consent Decree requires payment of a civil penalty of $1,400,000. The Consent Decree also includes injunctive relief which requires P4 to prevent leachate and certain storm water from its waste rock from discharging to the downstream creek and wetland.

The Department of Justice will receive comments related to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *P4 Production L.L.C.,* No. 11–00166–REB (D. Idaho), Department of Justice Case Number 90–5–1–1–09868.

During the public comment period, the Consent Decree may be examined at the Office of the United States Attorney, District of Idaho, 800 Park Boulevard, Suite 600, Boise, Idaho. The Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.justice.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $9.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Robert E. Maher, Jr.,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2011–10071 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

Notice is hereby given that on April 13, 2011, a proposed Consent Decree was filed with the United States District Court for the District of Oregon in *United States* v. *JELD–WEN, Inc.,* No. 3:11–cv–453–JT (D. Or.). The proposed Consent Decree entered into by the United States, the States of West Virginia, Iowa, and North Carolina, and the company resolves the United States' and States' claims against the company for civil penalties and injunctive relief pursuant to the Clean Air Act, 42 U.S.C. 7412, 7413. Under the terms of the Consent Decree, JELD–WEN will pay the United States and States a combined civil penalty of $850,000, for excessive emissions of hazardous air pollutants from four door skin manufacturing plants located in Washington, Iowa, North Carolina, West Virginia. In addition, JELD–WEN will undertake projects to offset its excess emission,

study and install process changes or controls to eliminate excess emissions, and comply with interim emission limits.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *JELD–WEN, Inc.,* DJ Ref. No. 90–5–2–1–09567.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Oregon, 1000 SW. Third Avenue, Suite 600, Portland, Oregon 97204–2902, 503–727–1053, and at the Environmental Protection Agency, Region 10, 1200 6th Avenue, Seattle, Washington 98101, 800–424–4372. During the public comment period, the proposed Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $18.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

**Robert E. Maher, Jr.,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2011–10052 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

## Drug Enforcement Administration

## Importer of Controlled Substances; Notice of Registration

By Notice dated February 15, 2011, and published in the **Federal Register** on February 23, 2011, 76 FR 10067, Sigma Aldrich Manufacturing LLC., 3500 Dekalb Street, St. Louis, Missouri 63118, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the following basic classes of controlled substances:

| Drug | Schedule |
|---|---|
| Cathinone (1235) | I |
| Methcathinone (1237) | I |
| Aminorex (1585) | I |
| Gamma Hydroxybutyric Acid (2010) | I |
| Methaqualone (2565) | I |
| Alpha-ethyltryptamine (7249) | I |
| Ibogaine (7260) | I |
| Lysergic acid diethylamide (7315) | I |
| Marihuana (7360) | I |
| Tetrahydrocannabinols (7370) | I |
| Mescaline (7381) | I |
| 4-Bromo-2,5-dimethoxyamphetamine (7391) | I |
| 4-Bromo-2,5-dimethoxyphenethylamine (7392) | I |
| 4-Methyl-2,5-dimethoxyamphetamine (7395) | I |
| 2,5-Dimethoxyamphetamine (7396) | I |
| 3,4-Methylenedioxyamphetamine (7400) | I |
| N-Hydroxy-3,4-methylenedioxyamphetamine (7402) | I |
| 3,4-Methylenedioxy-N-ethylamphetamine (7404) | I |
| 3,4-Methylenedioxymethamphetamine (MDMA) (7405) | I |
| 4-Methoxyamphetamine (7411) | I |
| Bufotenine (7433) | I |
| Diethyltryptamine (7434) | I |
| Dimethyltryptamine (7435) | I |
| Psilocybin (7437) | I |
| Psilocyn (7438) | I |
| 1-[1-(2-Thienyl)cyclohexyl]piperidine (7470) | I |
| N-Benzylpiperazine (BZP) (7493) | I |
| Heroin (9200) | I |
| Normorphine (9313) | I |
| Etonitazene (9624) | I |
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Methylphenidate (1724) | II |
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| Glutethimide (2550) | II |
| Nabilone (7379) | II |
| Phencyclidine (7471) | II |
| Cocaine (9041) | II |
| Codeine (9050) | II |
| Diprenorphine (9058) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Diphenoxylate (9170) | II |

| Drug | Schedule |
|---|---|
| Ecgonine (9180) | II |
| Ethylmorphine (9190) | II |
| Hydrocodone (9193) | II |
| Levorphanol (9220) | II |
| Meperidine (9230) | II |
| Methadone (9250) | II |
| Morphine (9300) | II |
| Thebaine (9333) | II |
| Opium, powdered (9639) | II |
| Levo-alphacetylmethadol (9648) | II |
| Oxymorphone (9652) | II |
| Fentanyl (9801) | II |

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a), and determined that the registration of Sigma Aldrich Manufacturing LLC. to import the basic classes of controlled substances is consistent with the public interest, and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Aldrich Manufacturing LLC. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: April 15, 2011.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2011–10145 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 31, 2011, Cedarburg Pharmaceuticals, Inc., 870 Badger Circle, Grafton, Wisconsin 53024, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of 4-Anilino-N-phenethyl-4-Piperidine (8333), a basic class of controlled substance listed in schedule II.

The company plans to use this controlled substance in the manufacture of another controlled substance.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than June 27, 2011.

Dated: April 15, 2011.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2011–10139 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 6, 2010, and published in the **Federal Register** on October 14, 2010, 75 FR 63203, PCAS-Nanosyn, LLC, 3331–B Industrial Drive, Santa Rosa, California 95403, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

| Drug | Schedule |
|---|---|
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Methylphenidate (1724) | II |
| Phencyclidine (7471) | II |
| Codeine (9050) | II |
| Diprenorphine (9058) | II |
| Oxycodone (9143) | II |
| Hydromorphone (9150) | II |
| Hydrocodone (9193) | II |
| Methadone (9250) | II |
| Morphine (9300) | II |
| Oxymorphone (9652) | II |
| Fentanyl (9801) | II |

The company is a contract manufacturer. At the request of the company's customers, it manufactures derivatives of controlled substances in bulk form only. The primary service provided by the company to its customers is the development of the process of manufacturing the derivative. As part of its service to its customers, the company distributes the derivatives of the controlled substances it manufactures to those customers. The company's customers use the newly-created processes and the manufactured derivatives in furtherance of formulation processes and dosage form manufacturing; pre-clinical studies, including toxicological studies; clinical studies supporting investigational Drug Applications; and use in stability studies.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of PCAS-Nanosyn, LLC to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated PCAS-Nanosyn, LLC to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with State and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of

the basic classes of controlled substances listed.

Dated: April 15, 2011.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 2011–10144 Filed 4–26–11; 8:45 am]

**BILLING CODE 4410–09–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. NRC–2010–0377]**

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on December 23, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NUREG/BR–0238, Materials Annual Fee Billing Handbook; NRC Form 628, "Financial EDI Authorization;" NUREG/BR–0254, Payment Methods; and NRC Form 629, "Authorization for Payment by Credit Card."

3. *Current OMB approval number:* 3150–0190.

4. *The form number if applicable:* NRC Form 628, "Financial EDI Authorization" and NRC Form 629, "Authorization for Payment by Credit Card.

5. *How often the collection is required:* On occasion (as needed to pay invoices).

6. *Who will be required or asked to report:* Anyone doing business with the Nuclear Regulatory Commission including licensees, applicants and individuals who are required to pay a fee for inspections and licenses.

7. *An estimate of the number of annual responses:* 583 (11 for NRC form 628 and 572 for NRC form 629 and NUREG/BR–0254).

8. *The estimated number of annual respondents:* 583 (11 for NRC form 628 and 572 for NRC form 629 and NUREG/BR–0254).

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 47 hours (.9 hour for NRC form 628 and 46 hours for NRC form 629 and NUREG/BR–0254).

10. *Abstract:* The U.S. Department of the Treasury encourages the public to pay monies owed the government through use of the Automated Clearinghouse Network and credit cards. These two methods of payment are used by licensees, applicants, and individuals to pay civil penalties, full cost licensing fees, and inspection fees to the NRC.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 27, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0190), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine_J._Kymn@omb.eop.gov* or submitted by telephone at 202–395–4638.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 21st day of April, 2011.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2011–10162 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. NRC–2011–0056]**

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

**SUMMARY:** The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 81, "Standard Specifications for Granting of Patent Licenses."

2. *Current OMB approval number:* 3150–0121.

3. *How often the collection is required:* Applications for licenses are submitted once. Other reports are submitted annually or as other events require.

4. *Who is required or asked to report:* Applicants for and holders of NRC licenses to NRC inventions.

5. *The number of annual respondents:* 1.

6. *The number of hours needed annually to complete the requirement or request:* 37; however, no applications are anticipated during the next 3 years.

7. *Abstract:* As specified in 10 CFR part 81, the NRC may grant non-exclusive licenses or limited exclusive licenses to its patent inventions to responsible applicants. Applicants for licenses to NRC inventions are required to provide information which may provide the basis for granting the requested license. In addition, all license holders must submit periodic reports on efforts to bring the invention to a point of practical application and the extent to which they are making the benefits of the invention reasonably accessible to the public. Exclusive license holders must submit additional information if they seek to extend their licenses, issue sublicenses, or transfer the licenses. In addition, if requested, exclusive license holders must promptly supply to the United States Government copies of all pleadings and other papers

filed in any patent infringement lawsuit, as well as evidence from proceedings relating to the licensed patent.

Submit, by June 27, 2011, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly available documents, including the draft supporting statement, at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC Web site *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. 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. Comments submitted should reference Docket No. NRC–2011–0056. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2011–0056. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 21st day of April 2011.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2011–10164 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. NRC–2010–0347]**

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on December 30, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* "DOE/NRC Form 742, Material Balance Report and NUREG/BR–0007, Instructions for the Preparation and Distribution of Material Status Report."

3. *Current OMB approval number:* 3150–0004.

4. *The form number if applicable:* 742.

5. *How often the collection is required:* DOE/NRC Form 742 is submitted annually following a physical inventory of nuclear materials.

6. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear or source material.

7. *An estimate of the number of annual responses:* 380.

8. *The estimated number of annual respondents:* For DOE/NRC Form 742, there are approximately 380 respondents annually.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1300.

10. *Abstract:* Each licensee authorized to possess special nuclear material totaling more than one gram of contained uranium-235, uranium-233, or plutonium, or any combination thereof, are required to submit DOE/NRC Forms 742 and 742C. In addition, any licensee authorized to possess 1,000 kilograms of source material is required to submit DOE/NRC Form 742. The information is used by NRC to fulfill its responsibilities as a participant in US/IAEA Safeguards Agreement and various bilateral agreements with other countries, and to satisfy its domestic safeguards responsibilities.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 27, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0004), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine_J._Kymn@omb.eop.gov* or submitted by telephone at 202–395–4638.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 21st day of April 2011.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2011–10168 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. NRC–2010–0348]**

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on December 30, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* "DOE/NRC Form 742C, Physical Inventory Listing."

3. *Current OMB approval number:* 3150–0058.

4. *The form number if applicable:* 742C.

5. *How often the collection is required:* DOE/NRC Form 742C is submitted annually following a physical inventory of nuclear materials.

6. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear or source material.

7. *An estimate of the number of annual responses:* 380.

8. *The estimated number of annual respondents:* For DOE/NRC Form 742C, there are approximately 380 respondents annually.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1480.

10. *Abstract:* Each licensee authorized to possess special nuclear material totaling more than one gram of contained uranium-235, uranium-233, or plutonium, or any combination thereof, is required to submit DOE/NRC Form 742C data. The information is used by NRC to fulfill its responsibilities as a participant in U.S./IAEA Safeguards Agreement and various bilateral agreements with other countries, and to satisfy its domestic safeguards responsibilities.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. OMB clearance requests are available at the NRC Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 27, 2011. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0058), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine_J._Kymn@omb.eop.gov* or submitted by telephone at 202–395–4638.

The NRC Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 21st day of April 2011.

For the Nuclear Regulatory Commission.

**Tremaine Donnell,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. 2011–10166 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 11, 2011, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, May 11, 2011—12 p.m. until 1 p.m.**

The Subcommittee will discuss proposed ACRS activities and related matters. 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), Kent Howard (Telephone 301–415–2989 or E-mail: *Kent.Howard@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: April 20, 2011.

**Yoira Diaz-Sanabria,**

*Acting Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.*

[FR Doc. 2011–10161 Filed 4–26–11; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2011–0091]**

### Office of New Reactors; Proposed Revision 2 to Standard Review Plan, Section 1.0 on Introduction and Interfaces

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Solicitation of public comment.

**SUMMARY:** The NRC is soliciting public comment on NUREG–0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," on a proposed Revision 2 to Standard Review Plan (SRP), Section 1.0, "Introduction and Interfaces" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML110110573). The Office of New Reactors (NRO) is revising SRP Section 1.0, which updates

Revision 1 (ADAMS Accession No. ML072900601) of this section, dated November 2007, to reflect the changes as shown in the description of changes. This update also incorporates into the guidance previously issued Interim Staff Guidance on Post-Combined License Commitments (ESP/DC/COL–ISG–015, see ADAMS Accession ML093570020 (package)) with some editorial changes. A redline document comparing the November 2007 version and the current version can be found under ADAMS Accession No. ML110110566.

The NRC staff issues **Federal Register** notices to facilitate timely implementation of the current staff guidance and to facilitate activities associated with the review of amendment applications and review of design certification and combined license applications for NRO. The NRC staff intends to incorporate the final approved guidance into the next revision of NUREG–0800, SRP Section 1.0, Revision 2.

**DATES:** Comments must be filed no later than May 27, 2011. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC–2011–0091 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any one of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0091. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Fax comments to:* RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. William F. Burton, Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone at 301–415–6332 or e-mail at *william.burton@nrc.gov.*

The NRC staff is issuing this notice to solicit public comments on the proposed SRP Section 1.0, Revision 2. After the NRC staff considers any public comments, it will make a determination regarding the proposed SRP Section 1.0, Revision 2.

Dated at Rockville, Maryland, this 14th day of April 2011.

For the Nuclear Regulatory Commission.

**William F. Burton,**

*Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. 2011–10082 Filed 4–26–11; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Rule 17Ad–3(b); SEC File No. 270–424; OMB Control No. 3235–0473]**

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval: Rule 17Ad–3(b) (17 CFR 240.17Ad–3(b)).

Rule 17Ad–3(b) requires registered transfer agents that for each of two consecutive months have failed to turnaround at least 75% of all routine items in accordance with the requirements of Rule 17Ad–2(a) or to process at least 75% of all routine items in accordance with the requirements of Rule 17Ad–2(a) to send to the chief executive officer of each issuer for which such registered transfer agent acts a copy of the written notice required under Rule 17Ad–2(c), (d), and (h). The issuer may use the information contained in the notices in several ways: (1) To provide an early warning to the issuer of the transfer agent's non-compliance with the Commission's minimum performance standards regarding registered transfer agents, and (2) to assure that issuers are aware of certain problems and poor performances with respect to the transfer agents that are servicing the issuer's securities. If the issuer does not receive notice of a registered transfer agent's failure to comply with the Commission's minimum performance standards then the issuer will be unable to take remedial action to correct the problem or to find another registered transfer agent. Pursuant to Rule 17Ad–3(b), a transfer agent that has already filed a Notice of Non-Compliance with the Commission pursuant to Rule 17Ad–2 will only be required to send a copy of that notice to issuers for which it acts when that transfer agent fails to turnaround 75% of all routine items or to process 75% of all items.

The Commission estimates that only two transfer agents will meet the requirements of Rule 17Ad–3(b). If a transfer agent fails to meet the minimum requirements under 17Ad–3(b), such transfer agent is simply sending a copy of a form that had already been produced for the Commission. The Commission estimates a requirement will take each respondent approximately one hour to complete, for a total annual estimate burden of two hours at cost of approximately $60.00

for each hour, which consists only of internal labor costs. There are no external labor costs associated with sending the notice to issuers.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions for the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission 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 PRA that does not display a valid Office of Management and Budget (OMB) control number.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: April 22, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10193 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

*Upon Written Request, Copies Available From:* U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

*Extension:*

Rule 15c2–5, SEC File No. 270–195, OMB Control No. 3235–0198.

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 Rule 15c2–5 (17 CFR 240.15c2–5) 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.

Rule 15c2–5 prohibits a broker-dealer from arranging or extending certain loans to persons in connection with the offer or sale of securities unless, before any element of the transaction is entered into, the broker-dealer: (1) Delivers to the person a written statement containing the exact nature and extent of the person's obligations under the loan arrangement; the risks and disadvantages of the loan arrangement; and all commissions, discounts, and other remuneration received and to be received in connection with the transaction by the broker-dealer or certain related persons (unless the person receives certain materials from the lender or broker-dealer which contain the required information); and (2) obtains from the person information on the person's financial situation and needs, reasonably determines that the transaction is suitable for the person, and retains on file and makes available to the person on request a written statement setting forth the broker-dealer's basis for determining that the transaction was suitable. The collection of information required by Rule 15c2–5 is necessary to execute the Commission's mandate under the Exchange Act to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers.

The Commission estimates that there are approximately 50 respondents that require an aggregate total of 600 hours to comply with Rule 15c2–5. Each of these approximately 50 registered broker-dealers makes an estimated six annual responses, for an aggregate total of 300 responses per year. Each response takes approximately two hours to complete. Thus, the total compliance burden per year is 600 burden hours. The approximate cost per hour is $50.00 for clerical labor, resulting in a total compliance cost of $30,000 (600 hours @ $50.00 per hour). These reflect internal labor costs; there are no external labor, capital, or start-up costs.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

The Commission 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 that does not display a valid OMB control number.

Please direct your written comments to: Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: April 20, 2011.

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10107 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64325; File No. SR–NYSEAmex–2011–26]**

### Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permit the Listing of Series with $0.50 and $1 Strike Price Increments on Certain Options Used To Calculate Volatility Indexes

April 22, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 19, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt Commentary .13 to NYSE Amex Rule 903 to permit the listing of strike prices

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in $0.50 intervals where the strike price is less than $75, and strike prices in $1.00 intervals where the strike price is between $75 and $150 for option series used to calculate volatility indexes. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to permit the Exchange to list strike prices in $0.50 intervals where the strike price is less than $75, and strike prices in $1.00 intervals where the strike price is between $75 and $150 for option series used to calculate volatility indexes. The proposal is based on a recently approved rule change by the Chicago Board Options Exchange ("CBOE").[3]

To effect this change, the Exchange is proposing to add new Commentary .13 to Rule 903, Series of Options Open for Trading. The new provisions will permit the listing of strike prices in $0.50 intervals where the strike price is less than $75, and strike prices in $1.00 intervals where the strike price is between $75 and $150 for option series used to calculate volatility indexes.[4]

Volatility indexes are calculated and disseminated by the CBOE, which also list options on the resulting index. At this time, NYSE Amex has no intention of listing volatility options, and will not be selecting options on any equity securities, Exchange-Traded Fund Shares, Trust Issued Receipts, Exchange Traded Notes, Index-Linked Securities, or indexes to be the basis of a volatility index.

To the extent that the CBOE or another exchange selects a multiply listed product as the basis of a volatility index, proposed Commentary .13 would permit NYSE Amex to list and compete in all series listed by the CBOE for purposes of calculating a volatility index.

NYSE Amex has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing of strike prices in $0.50 intervals where the strike price is less than $75, and strike prices in $1.00 intervals where the strike price is between $75 and $150 for option series used to calculate volatility indexes in securities selected by the CBOE.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934[5] (the "Act") in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed 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, by allowing the Exchange to offer a full range of all available option series in a given class, including those selected by other exchanges to be the basis of a volatility index. While this proposal will generate additional quote traffic, the Exchange does not believe that this increased traffic will become unmanageable since the proposal is restricted to a limited number of classes. Further, the Exchange does not believe that the proposal will result in a material proliferation of additional series because it is restricted to a limited number of classes.

### *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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal is substantially similar to that of another exchange that has been approved by the Commission.[9] Therefore, the Commission designates the proposal operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[3] *See* Exchange Act Release No. 64189 (April 5, 2011), 76 FR 20066 (April 11, 2011).

[4] For example, CBOE calculates the CBOE Gold ETF Volatility Index ("GVZ"), which is based on the VIX methodology applied to options on the SPDR Gold Trust ("GLD"). The current filing would permit $0.50 strike price intervals for GLD options where the strike price is $75 or less. NYSE Amex is currently permitted to list strike prices in $1 intervals for GLD options (where the strike price is $200 or less), as well as for other exchange-traded fund ("ETF") options. See Rule 903, Commentary .05

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). 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 the five-day prefiling requirement.

[9] *See supra* note 3.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

*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–2011–26 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–2011–26. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–26 and should be submitted on or before May 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10195 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

[11] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64319; File No. SR–CHX–2011–04]**

## Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add the CHX Only Order Type

April 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 April 19, 2011, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by 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

CHX proposes to amend CHX Article 1, Rule 2 (Order Types and Conditions) and Article 20, Rules 4 (Eligible Orders) and 8 (Operation of the Matching System) to add the CHX Only order type. The text of this proposed rule change is available on the Exchange's Web site at (*http://www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes [sic] and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend CHX Article 1, Rule 2 (Order Types and Conditions) and Article 20, Rules 4 (Eligible Orders) and 8 (Operation of the Matching System) to add the CHX Only order type. CHX Only orders are designed to encourage displayed liquidity on the Exchange and reduce automatic cancellations by the Exchange's core trading facility, the Matching System, for orders which lock or cross the best displayed quotes in the National Market System. CHX Only orders will be automatically repriced by the Exchange, if necessary as discussed below, to reside in the Matching System and be displayed to the national market system at prices which are in conformity with Regulation NMS and the short sale price test restrictions of Rule 201 of Regulation SHO. An order sender can enter instructions to have all limit orders default to "CHX Only" and therefore be subject to the repricing process. In addition, an order sender can enter instructions to only use the repricing process if the CHX Only order locks the NBBO at the time of order entry, and not if it crosses the NBBO. Such instructions can be submitted on either an order-by-order or global basis by the order sending firm. If such instructions are given and the order crosses the NBBO, it will be rejected from the Matching System.

As a general matter, CHX Only orders are limit orders which are ranked and executed on the Exchange according to the provisions of Rule 8 of Article 20. By their nature, CHX Only orders are not eligible for routing away by the Exchange to another trading center.[3]

In addition to the foregoing, a CHX Only order which, at the time of entry to the Matching System, would cross a Protected Quotation, as defined in Regulation NMS Rule 600(b)(58), will be automatically repriced by the Exchange to the locking price and ranked at such price in the Matching System. A CHX Only order that, if at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation will be displayed by the Matching System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers) (the "NMS repricing process").[4] In the event that

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CHX Only order type is therefore similar to the "Do Not Route" order defined in Article 20, Rule 4.b(10), which also cannot be routed to another destination. The repricing process defined in this filing does not apply, however, to Do Not Route orders.

[4] Such orders will be ranked at the locking price at the time they are received by the Matching System. As noted above, an order sender is permitted to submit an instruction that only orders which lock the NBBO at the time of order entry be subject to the repricing process. Orders which cross

the NBBO changes such that the CHX Only order at the original locking price would not lock or cross a Protected Quotation, the order subject to NMS repricing will receive a new timestamp, and will be displayed at the original locking price.[5]

In order to promote compliance with recent amendments to Regulation SHO,[6] CHX Only sell short orders will only execute at one minimum increment above the current NBB if the short sale price test restrictions of Rule 201 of Regulation SHO are in effect for the covered security, and no exemption to such restrictions is applicable. A CHX Only order that, at the time of entry, could not be executed or displayed based on Rule 201 of Regulation SHO will be repriced by the Matching System at one minimum price variation above the current NBB ("short sale repricing" and together with NMS repricing, the "repricing process") if the short sale price test restriction under Rule 201 of Regulation SHO is in effect for the covered security.[7] A CHX Only order subject to short sale repricing will not be readjusted downward even if it could be displayed at a lower price without violation of Rule 201 of Regulation SHO. Neither CHX Only orders marked "short exempt" nor CHX Only orders displayed by the Matching System at a price above the then current NBB at the time of initial display shall be subject to short sale repricing. If a CHX Only order is eligible for the repricing process, it will be subject to both NMS repricing and short sale repricing.

An example illustrates how the CHX Only order type would function. Suppose that the prevailing market for security XYZ (which is a security subject to the provisions of Regulation NMS and Regulation SHO) is $30.25 (bid)—$30.26 (offered) and the best priced bid in the Matching System is priced at $30.23. A CHX Only order to sell 100 shares of XYZ at $30.24 is submitted to the Matching System.[8] Since the order is not immediately executable within our system and the display of the sell order at $30.24 would result in an impermissible crossed market, the inbound sell would normally be cancelled and rejected back to the order sender or routed to another destination according to each Participant's instructions pursuant to the provisions of Article 20, Rule 8(h). Pursuant to the NMS repricing process, a CHX Only sell order would be repriced at the locking price (*i.e.,* $30.25 in this instance) for purposes of ranking within the CHX book. The Matching System would publicly display the sell order at $30.26 in order to avoid locking the market in violation of Rule 6 of Article 20 (Locked and Crossed Markets). If a buy order was submitted which could be executed against the resting CHX Only order (*i.e.,* the buy order was priced at $30.25 or above), it would execute at the price at which the CHX Only sell order was ranked within the Matching System, or $30.25 in this example.

If the CHX Only order was a non-exempt sell short order and the short sale price test restrictions of Rule 201 of Regulation SHO were in effect for that security, then the order would have been ranked and displayed at one minimum increment above the current NBB at the time of receipt, in this case $30.26. Thus, the subsequent submission of a buy limit order priced at $30.25 would not result in a match, and the buy order would normally be displayed in the Matching System at $30.25. Only a buy order priced at $30.26 or above would result in a transaction by matching against the displayed CHX Only sell short order.

By submitting CHX Only orders, Participants will be able to avoid the risk that their orders will be routed away or rejected because of changes in the state of the national market system during the process of order transmission. In addition, the use of the CHX Only order type in connection with a sell short order will promote compliance with Rule 201 of Regulation SHO since non-exempt CHX Only sell short orders priced at or below the current NBB would be repriced to one increment above the current NBB.[9] Moreover, the execution of CHX Only orders in certain circumstances (such as the example noted above) will result in price improvement above the displayed bid or offer for inbound orders. CHX notes that order types similar to the CHX Only order are already in use by other market centers.[10]

The Exchange is also amending Rule 8 of Article 20 to describe how the Matching System will process sell short orders in light of the recent adoption of the short sale price test restrictions of Regulation SHO. For any execution or display of a short sale order in a covered security to occur on the Exchange when a short sale price test restriction is in effect, the price must be above the current NBB, unless the sell order was initially displayed by the Matching System at a price above the then-current NBB or is marked "short exempt" pursuant to Regulation SHO.[11] A short sale order, other than a CHX Only order (which will be repriced), will be cancelled back to the order sender if, based on Rule 201 of Regulation SHO, such order is not executable, cannot be routed to another trading center pursuant to Article 20, Rule 8(h) below and cannot be posted to the Matching System. These provisions apply to all orders submitted to the Matching System.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[12] and furthers the objectives of Section 6(b)(5) in particular,[13] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by allowing CHX to amend its rules to add the CHX Only

the NBBO would be rejected back to the order sender.

[5] Any ranking, display or acceptance will be in compliance with applicable rules regarding minimum pricing increments. *See,* Regulation NMS Rule 612.

[6] *See* Exchange Act Release No. 61595 (Feb. 26, 2010), 75 FR 11232 (Mar. 10, 2010) (adopting amendments to Rule 201 and Rule 200(g) of Regulation SHO). Among other things, Rule 201 requires a trading center to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order of a covered security at a price that is less than or equal to the current national best bid if the price of that covered security decreases by 10% or more from its previous day's closing price. The amendment to Rule 200(g) provides a "short exempt" marking requirement. The compliance date for the amendments to Regulation SHO was February 28, 2011. *See,* Exchange Act Release No. 63247 (Nov. 4, 2010), 75 FR 68702 (Nov. 9, 2010). *See also,* Division of Trading & Markets, Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO.

[7] *See* 17 CFR 242.201(a)(1). Under Rule 201, the term "covered security" means any "NMS stock," as defined in Rule 600(b)(47) of Regulation NMS. *See,* 17 CFR 242.600(b)(47).

[8] This example assumes the order to sell is either long or short, when the short sale price test restriction is not in effect.

[9] Non-CHX Only sell short orders submitted with a limit price at or below the current NBB at the time received by the Matching System and which are not marked as sell short exempt shall be cancelled and rejected back to the order sender.

[10] *See, e.g.,* BATS Rule 11.9(c)(4) (BATS Only order) and EDGX Rule 11.5(c)(4) (EDGX Only order). *See also,* Exchange Act Release No. 63948 (Feb. 23, 2011), 76 FR 11303 (Mar. 1, 2011) (adopting the short sale price sliding process for BATS Only orders). *See also,* BATS Rule 11.9(c)(4), (g); EDGX Rule 11.5(c)(4)(B).

[11] Do Not Display sell short orders will not be accepted by the Matching System if at the time of receipt the limit price is at or below the current NBB, and no exception applies.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

order types based on similar rules already in effect at other exchanges.

As noted above, CHX Only orders are designed to encourage displayed liquidity on the Exchange and reduce automatic cancellations by the Exchange's core trading facility, the Matching System, for orders which lock or cross the best displayed quotes in the National Market System. CHX Only orders will be automatically repriced by the Exchange's systems on behalf of order senders. Participants will not have to reenter orders which otherwise would have been cancelled and rejected by the Exchange's systems to avoid prohibited locked or crossed markets and trade throughs, therefore reducing messaging traffic and facilitating the speedy representation of such orders in the national market system. The use of the CHX Only order will also facilitate compliance with the short sale price test restrictions of Regulation SHO. Again, Participants will not have to reenter sell short orders which would have been rejected by the Matching System if they were at or below the current NBB at the time when they were received, and no exception to the short sale price test restrictions applied. The Exchange notes that other market centers, such as the BATS exchanges and Direct Edge exchanges, have order types which make use of the repricing process. The addition of these order types is intended to benefit Exchange customers by reducing message traffic and improving fill rates and promote competition among market centers offering similar products and services.

*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 Regarding the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally may not become operative prior to 30 days after the date of filing.[19] However, Rule 19b–4(f)(6)(iii) 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. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Other national securities exchanges have adopted similar order types,[20] and this proposal does not raise any novel issues. For these reasons, the Commission designates the proposed rule change to be operative upon filing with the Commission.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CHX–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–CHX–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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CHX–2011–04 and should be submitted on or before May 18, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10099 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] *Id.*

[19] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] *See* BATS Rule 11.9(c)(4) (BATS Only order), (g) (price sliding); EDGX Rule 11.5(c)(4) (EDGX Only order).

[21] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64322; File No. SR–NYSE–2011–09]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Amending Exchange Rule 103B To Modify the Application of the Exchange's Designated Market Maker Allocation Policy in the Event of a Merger Involving One or More Listed Companies

April 21, 2011.

### I. Introduction

On February 24, 2011, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 103B to modify the application of the Exchange's Designated Market Maker ("DMM") allocation policy in the event of a merger involving one or more listed companies. The proposed rule change was published for comment in the **Federal Register** on March 10, 2011.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

### II. Description of the Proposed Rule Change

Currently, Policy Note VI(D)(1) to Exchange Rule 103B provides that when two NYSE listed companies merge, the post-merger listed company is assigned to the DMM in the company that is determined to be the survivor-in-fact (dominant company). Where no survivor-in-fact can be identified, the post-merger listed company may select one of the DMM units trading the merging companies without the security being referred for reallocation, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Rule 103B, Section III.

In addition, Policy Note VI(D)(3) to Exchange Rule 103B provides that in situations involving the merger of a listed company and an unlisted company, where the unlisted company is determined to be the survivor-in-fact, the post-merger listed company may choose to remain registered with the DMM unit that had traded the listed company entity in the merger, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Rule 103B.

The Exchange proposes to amend Policy Notes VI(D)(1) and (3) to Exchange Rule 103B to provide that in all listed company mergers, either between two listed companies or a listed company and an unlisted company, the management of the post-merger listed company will be able to choose to retain either of the incumbent DMMs (in the case of a merger between two listed companies) or the incumbent DMM (in the case of a merger between a listed company and an unlisted company) or request to have the security referred for reallocation. In no case will the policy dictate that a post-merger listed company must retain an incumbent DMM unless it chooses to do so.

The Exchange also proposes to amend Policy Notes VI(D)(1) and (3) to provide that a DMM unit that is ineligible to receive a new allocation due to its failure to meet the requirements of Exchange Rule 103B, Section II(D) and (E) will be eligible to be selected in its capacity as the DMM for one of the two pre-merger listed companies (in the case of a merger between two listed companies) or in its capacity as DMM of the pre-merger listed company (in the case of a merger between a listed company and an unlisted company), but will not be eligible to participate in the allocation process if the post-merger company requests that the matter be referred for allocation through the allocation process pursuant to Exchange Rule 103B, Section III. In the event that such a situation were to arise, the Exchange would inform the listed company of such DMM unit's ineligibility under Exchange Rule 103B, Section II(D) or (E).

### III. Discussion and Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of a national securities exchange be designed 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 Commission believes that the proposed rule change is consistent with the Act because it would provide listed companies involved in a merger with greater flexibility with respect to the DMM allocation process. Moreover, the Commission notes that Section 806.01 of the NYSE Listed Company Manual provides that a listed company can request a change of DMM at any time. Thus, giving post-merger listed companies greater control over the allocation decision in connection with a merger is consistent with the Exchange's current DMM allocation policy.

### IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–NYSE–2011–09) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10091 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64039 (March 4, 2011), 76 FR 13251.

[4] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–64321; File No. SR–NYSEAmex–2011–11]**

## Self-Regulatory Organizations; NYSE Amex LLC; Order Approving a Proposed Rule Change Amending Rule 103B—NYSE Amex Equities To Modify the Application of the Exchange's Designated Market Maker Allocation Policy in the Event of a Merger Involving One or More Listed Companies

April 21, 2011.

### I. Introduction

On February 24, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 103B—NYSE Amex Equities ("Exchange Equities Rule 103B") to modify the application of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange's Designated Market Maker ("DMM") allocation policy in the event of a merger involving one or more listed companies. The proposed rule change was published for comment in the **Federal Register** on March 10, 2011.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

## II. Description of the Proposed Rule Change

Currently, Policy Note VI(D)(1) to Exchange Equities Rule 103B provides that when two NYSE Amex listed companies merge, the post-merger listed company is assigned to the DMM in the company that is determined to be the survivor-in-fact (dominant company). Where no survivor-in-fact can be identified, the post-merger listed company may select one of the DMM units trading the merging companies without the security being referred for reallocation, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Equities Rule 103B, Section III.

In addition, Policy Note VI(D)(3) to Exchange Equities Rule 103B provides that in situations involving the merger of a listed company and an unlisted company, where the unlisted company is determined to be the survivor-in-fact, the post-merger listed company may choose to remain registered with the DMM unit that had traded the listed company entity in the merger, or it may request that the matter be referred for allocation through the allocation process pursuant to Exchange Equities Rule 103B.

The Exchange proposes to amend Policy Notes VI(D)(1) and (3) to Exchange Equities Rule 103B to provide that in all listed company mergers, either between two listed companies or a listed company and an unlisted company, the management of the post-merger listed company will be able to choose to retain either of the incumbent DMMs (in the case of a merger between two listed companies) or the incumbent DMM (in the case of a merger between a listed company and an unlisted company) or request to have the security referred for reallocation. In no case will the policy dictate that a post-merger listed company must retain an incumbent DMM unless it chooses to do so.

The Exchange also proposes to amend Policy Notes VI(D)(1) and (3) to provide that a DMM unit that is ineligible to receive a new allocation due to its failure to meet the requirements of Exchange Equities Rule 103B, Section II(D) and (E) will be eligible to be selected in its capacity as the DMM for one of the two pre-merger listed companies (in the case of a merger between two listed companies) or in its capacity as DMM of the pre-merger listed company (in the case of a merger between a listed company and an unlisted company), but will not be eligible to participate in the allocation process if the post-merger company requests that the matter be referred for allocation through the allocation process pursuant to Exchange Equities Rule 103B, Section III. In the event that such a situation were to arise, the Exchange would inform the listed company of such DMM unit's ineligibility under Exchange Equities Rule 103B, Section II(D) or (E).

## III. Discussion and Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of a national securities exchange be designed 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 Commission believes that the proposed rule change is consistent with the Act because it would provide post-merger listed companies with greater flexibility with respect to the DMM allocation process in connection with a merger.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (SR–NYSEAmex–2011–11) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011–10090 Filed 4–26–11; 8:45 am]

**BILLING CODE 8011–01–P**

[3] *See* Securities Exchange Act Release No. 64040 (March 4, 2011), 76 FR 13249.

[4] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

---

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12530 and #12531]**

### North Carolina Disaster #NC–00033

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1969–DR), dated 04/19/2011.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 04/16/2011.

*Effective Date:* 04/19/2011.

*Physical Loan Application Deadline Date:* 06/20/2011.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/20/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** Alan Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 04/19/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties (Physical Damage and Economic Injury Loans):*

Bertie, Bladen, Cumberland, Halifax, Harnett, Johnston Lee, Onslow, Wake, Wilson.

*Contiguous Counties (Economic Injury Loans Only):*

North Carolina: Carteret, Chatham, Chowan, Columbus, Duplin, Durham, Edgecombe, Franklin, Granville, Greene, Hertford, Hoke, Jones, Martin, Moore, Nash, Northampton, Pender,

Pitt, Robeson, Sampson, Warren, Washington, Wayne.

The Interest Rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners With Credit Available Elsewhere | 5.125 |
| Homeowners Without Credit Available Elsewhere | 2.563 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 3.250 |
| Non-Profit Organizations Without Credit Available Elsewhere | 3.000 |
| For Economic Injury: | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 3.000 |
| The number assigned to this disaster for physical damage is 12530B and for economic injury is 125310. | |

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–10111 Filed 4–26–11; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 12532 and # 12533]**

### North Carolina Disaster # NC–00034

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Carolina (FEMA–1969–DR), dated 04/19/2011.

*Incident:* Severe Storms, Tornadoes and Flooding.

*Incident Period:* 04/16/2011.

*Effective Date:* 04/19/2011.

*Physical Loan Application Deadline Date:* 06/20/2011.

*Economic Injury (EIDL) Loan Application Deadline Date:* 01/19/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 04/19/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Bertie, Bladen, Craven, Cumberland, Currituck, Greene, Halifax, Harnett, Hertford, Hoke, Johnston, Lee, Onslow, Pitt, Robeson, Sampson, Wake, Wilson.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage.* | |
| Non-Profit Organizations with Credit Available Elsewhere | 3.250 |
| Non-Profit Organizations without Credit Available Elsewhere | 3.000 |
| *For Economic Injury.* | |
| Non-Profit Organizations without Credit Available Elsewhere | 3.000 |

The number assigned to this disaster for physical damage is 12532B and for economic injury is 12533B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Joseph P. Loddo,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2011–10112 Filed 4–26–11; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12529]**

### Oklahoma Disaster #OK–00046 Declaration of Economic Injury

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Oklahoma, dated 04/19/2011.

*Incident:* Severe snow storms.

*Incident Period:* 01/31/2011 through 02/05/2011.

*Effective Date:* 04/19/2011.

*EIDL Loan Application Deadline Date:* 01/19/2012.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Comanche, Creek, Delaware, Mayes, Rogers, Tulsa.

*Contiguous Counties:*

Oklahoma: Adair, Caddo, Cherokee, Cotton, Craig, Grady, Kiowa, Lincoln, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pawnee, Payne, Stephens, Tillman, Wagoner, Washington.

Arkansas: Benton.

Missouri: McDonald.

The Interest Rates are:

| | Percent |
|---|---|
| Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |

The number assigned to this disaster for economic injury is 125290

The States which received an EIDL Declaration # are Oklahoma, Arkansas, Missouri.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: April 19, 2011.

**Karen G. Mills,**

*Administrator.*

[FR Doc. 2011–10109 Filed 4–26–11; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Northern District of California, San Jose Division, dated June 9, 2009, the United States Small Business Administration hereby revokes the license of Aspen Ventures West, II, L.P., a Delaware Limited Partnership, to function as a small business investment company under the Small Business Investment Company License No. 09790400 issued to Aspen Ventures West, II, L.P., on November 8, 1994 and said license is hereby declared null and void as of June 9, 2009.

U.S. Small Business Administration.

Dated: April 19, 2011.

**Harry E. Haskins,**

*Associate Administrator for Investment.*

[FR Doc. 2011–10110 Filed 4–26–11; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for Eyeglass Frames.

**SUMMARY:** The U. S. Small Business Administration (SBA) is considering granting a class waiver of the Nonmanufacturer Rule for Optical Eyeglass Frames, Product Service Code (PSC) 6540 (Ophthalmic Instruments, Equipment, and Supplies), under the North American Industry Classification System (NAICS) code 339115 (Ophthalmic Goods Manufacturing). According to the request, no small business manufacturers supply this class of products to the Federal Government. Thus, SBA is seeking information on whether there are small business manufacturers of this item. If granted, the waiver would allow otherwise qualified small businesses to supply the product of any manufacturer on a Federal contract set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses or Participants in the SBA's 8(a) Business Development (BD) program.

**DATES:** Comments and source information must be submitted May 12, 2011.

**ADDRESSES:** You may submit comments and source information to Amy Garcia, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205–6842; by FAX at (202) 481–1630; or by email at *amy.garcia@sba.gov.*

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, or Participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS. In addition, SBA uses PSCs to further identify particular products within the NAICS code to which a waiver would apply. The SBA may then identify a specific item within a PSC and NAICS to which a class waiver would apply.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Optical Eyeglass Frames under PSC 6540 (Ophthalmic Instruments, Equipment, and Supplies), under NAICS code 339115 (Ophthalmic Goods Manufacturing). The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the product within 15 days after the date of posting in the **Federal Register**.

**John W. Klein,**

*Acting Director, Office of Government Contracting.*

[FR Doc. 2011–10106 Filed 4–26–11; 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 of 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 June 27, 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. *Farm Arrangement Questionnaire—20 CFR 404.1082(c)—0960–0064.* When self-employed workers submit earnings data to SSA, they cannot count rental income from a farm unless they demonstrate "material participation" in the farm's operation. A material participation arrangement means the farm owners must perform a combination of physical duties, management decisions, and capital investment in the farm they are renting out. In such cases, SSA uses Form SSA–7157, the Farm Arrangement Questionnaire, to document material participation. The respondents are workers who are renting farmland to others, are involved in the operation of the farm, and want to claim countable income from work they perform relating to the farm.

*Type of Request:* Revision of an OMB-approved information collection.

*Number of Respondents:* 38,000.

*Average Burden per Response:* 30 minutes.

*Estimated Annual Burden:* 19,000 hours.

2. *Authorization to Disclose Information to SSA—20 CFR 404.1512 and 416.912, 45 CFR 160 and 164—0960–0623.* SSA must obtain sufficient evidence to make eligibility determinations for Title II and Title XVI payments. Therefore, the applicant must authorize release of information from various sources to SSA. The applicant uses the SSA–827 to provide consent for the release of medical records, education records, and other

information related to his or her ability to perform tasks. Once the applicant completes the SSA–827, SSA or the State Disability Determination Service sends the form to the designated source(s) to obtain pertinent records. The respondents are applicants for Title II benefits and Title XVI payments.

*Type of Request:* Revision of an OMB-approved information collection.

| Modality | Number of respondents | Frequency of response | Number of responses | Average burden per response (minutes) | Total annual burden (hours) |
|---|---|---|---|---|---|
| SSA–827 with electronic signature (adult first person only) | 2,530,000 | 1 | 2,530,000 | 9 | 379,500 |
| SSA–827 with wet signature | 1,591,551 | 1 | 1,591,551 | 10 | 265,259 |
| Reading the Internet instructions | 708,100 | 1 | 708,100 | 3 | 35,405 |

Collectively:

*Number of Respondents:* 4,121,551.

*Number of Responses:* 4,829,651.

*Total Annual Burden:* 680,164 hours.

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection 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 May 27, 2011. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer at 410–965–8783 or by writing to the above e-mail address.

*Medicare Modernization Act Outreach Mailer, SSA–1023—20 CFR 418—0960–0773.* To promote awareness of the Medicare Part D subsidy program and encourage potentially eligible Medicare beneficiaries to complete Form SSA–1020 (OMB No. 0960–0696, the Application for Extra Help with Medicare Prescription Drug Plan Costs), SSA uses an outreach brochure that includes the mailer, Form SSA–1023. Pharmacies, doctors' offices, and medical clinics display and distribute copies of the brochure to encourage eligible Medicare beneficiaries to request and complete Form SSA–1020. Using a recorded, automated telephone call requiring no conversation with respondents, SSA follows up with beneficiaries who use the mailer to request an SSA–1020 but do not submit the SSA–1020 to the agency. The respondents are Medicare beneficiaries who are potentially eligible for Part D subsidy benefits and who request a copy of Form SSA–1020 using the SSA–1023 mailer.

*Type of Request:* Revision of an OMB-approved information collection.

*Number of Respondents:* 75,000.

*Frequency of Response:* 1.

*Average Burden per Response:* 1 minute.

*Estimated Annual Burden:* 1,250 hours.

Dated: April 22, 2011.

**Faye Lipsky,**

*Reports Clearance Officer, Center for Reports Clearance, Social Security Administration.*

[FR Doc. 2011–10132 Filed 4–26–11; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice: 7431]**

### Proposed Information Collection: Export Declaration of Defense Technical Data or Services

**AGENCY:** Department of State.

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval 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:** Submit comments to the Office of Management and Budget (OMB) until 30 days from April 27, 2011.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

**FOR FURTHER INFORMATION CONTACT:** You may obtain copies of the proposed information collections and supporting documents from 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: April 20, 2011.

**Robert S. Kovac,**

*Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State.*

[FR Doc. 2011–10201 Filed 4–26–11; 8:45 am]

**BILLING CODE 4710–25–P**

## DEPARTMENT OF STATE

**[Public Notice: 7433]**

### Culturally Significant Objects Imported for Exhibition Determinations: "Projects 95: Runa Islam"

**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 "Projects 95: Runa Islam" imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, NY, from on or about May 27, 2011, until on or about September 19, 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 Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: April 20, 2011.

**Ann Stock,**

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

[FR Doc. 2011–10207 Filed 4–26–11; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice: 7432]**

### Culturally Significant Objects Imported for Exhibition Determinations: "Marajo: Ancient Ceramics at the Mouth of the Amazon"

**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 "Marajo: Ancient Ceramics at the Mouth of the Amazon" imported from abroad for temporary exhibition within the United States, are of cultural significance.

The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Denver Museum of Art, Denver, CO, from on or about June 12, 2011, until on or about September 18, 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 Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: April 20, 2011.

**Ann Stock,**

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

[FR Doc. 2011–10204 Filed 4–26–11; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice: 7434]**

### Culturally Significant Object Imported for Exhibition Determinations: "Sarcophagus"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the object to be included in the exhibition "Sarcophagus," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Cloisters Museum and Gardens, New York, New York, from on or about May 2, 2011, until on or about May 2, 2014, 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 description of the exhibit object, 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: April 20, 2011.

**Ann Stock,**

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

[FR Doc. 2011–10203 Filed 4–26–11; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 7402]**

### The "100,000 Strong" Initiative Federal Advisory Committee: Notice of the Inaugural Meeting of the Committee

The Bureau of East Asian and Pacific Affairs of the Department of State hereby gives notice of a public meeting of the "100,000 Strong" Initiative Federal Advisory Committee. This is the inaugural meeting of the Advisory Committee. The "100,000 Strong"

Federal Advisory Committee, composed of prominent China experts and leaders in business, academic and non-profit organizations, will serve a critical advisory role in achieving the Administration's goal, announced in May 2010, of seeing 100,000 Americans study in China by 2014.

*Time and Place:* The meeting will take place on May 10, 2011, from 10:30 a.m. to 12:30 p.m. EDT at the Department of State, Washington, DC. Participants should arrive by 10 a.m. at 2201 C Street NW., C Street Lobby, and will be directed to the meeting room.

*Public Participation:* This Advisory Committee meeting is open to the public, subject to the capacity of the meeting room. Access to the building is controlled; persons wishing to attend should contact Lee Anne Shaffer of the Department of State's Bureau of East Asian and Pacific Affairs at *ShafferL@state.gov* and provide their name, affiliation, date of birth, country of citizenship, government identification type and number, e-mail address, and mailing address no later than May 5, 2011. Data from the public is requested pursuant to Public Law 99–399 (Omnibus Act of 1986) as amended; Public Law 107–56 (USA PATRIOT ACT): and Executive Order 13356. The primary purpose for collecting this information is to validate the identity of individuals who enter Department facilities. Please see the Privacy Impact Assessment for VACS–D at *http://www.state.gov/documents/organization/100305.pdf* for additional information. Persons who cannot participate in the meeting but who wish to comment are welcome to do so by e-mail to Lee Anne Shaffer at *ShafferL@state.gov*. A member of the public needing reasonable accommodation should advise the contact person identified above not later than May 3, 2011. Requests made after that date will be considered, but might not be able to be fulfilled. Members of the public who are unable to attend the Advisory Committee meeting in person but would like to participate by teleconferencing can contact Lee Anne Shaffer at 202–647–7059 to receive the conference call-in number and the relevant information.

Dated: April 21, 2011.

**Lee Anne Shaffer,**

*Foreign Affairs Officer, Department of State.*

[FR Doc. 2011–10208 Filed 4–26–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Final Federal Agency Actions on Proposed Highway in California

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327.

**SUMMARY:** The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, State Route 60 (PM R23.87/R24.48) Westbound On-Ramp at Grand Avenue project in the County of Los Angeles, State of California. Those actions grant licenses, permits, and approvals for the project.

**DATES:** By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before October 24, 2011. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Gary Iverson, Senior Environmental Planner, Caltrans, District 7, Division of Environmental Planning, 100 South Main Street, Suite 100, Los Angeles, CA 90012–3712. (213) 897–3818 *gary_Iverson@dot.ca.gov.*

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and the California Department of Transportation (Caltrans) assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to construct a direct westbound on-ramp to State Route 60 at the Grand Avenue interchange, which is located in the City of Industry, Los Angeles County. Completing the project would improve traffic operations, increase safety and increase capacity at the Grand Avenue interchange. The project would occur between postmiles 23.87 and 24.48 along State Route-60 in the City of Industry. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Finding of No Significant Impact (FONSI) for the project, approved on March 25, 2011. The FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FONSI can be viewed and downloaded from the project Web site at *http://www.dot.ca.gov/dist07/resources/envdocs/.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

❑ *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal Aid Highway Act; [23 U.S. C109].

❑ *Air:* Clean Air Act 42 U.S.C. 7401–7671(q).

❑ Migratory Bird Treaty Act [16 U.S.C. 703–712]

❑ Historic and Cultural Resources: Section 106 of the National historic Preservation Acct of 1966, as amended [16 U.S.C. 470(aa)–11].

❑ Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; The Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970, as amended.

❑ Hazardous Materials: Comprehensive Environmental response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675; Superfund Amendments and Reauthorization Act of 1986 (SARA);

❑ Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(l)(1).

Issued on: April 20, 2011.

**Shawn E. Oliver,**

*Team leader South, Federal Highway Administration, Sacramento, California.*

[FR Doc. 2011–10093 Filed 4–26–11; 8:45 am]

**BILLING CODE 4910–RY–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

### Solicitation of Nominations for Members of the Transit Rail Advisory Committee for Safety (TRACS)

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice to solicit nominees.

**SUMMARY:** The Federal Transit Administration (FTA) is seeking nominees to serve on TRACS. The Advisory Committee meets twice a year to advise FTA on transit safety issues. On February 1, 2010, FTA issued an initial notice (75 FR 5172) soliciting nominations to serve on TRACS. From that solicitation, 21 members were chosen, each representing a broad base of expertise relating to rail transit safety. The FTA Administrator (Administrator) has since determined that he would like to seek additional members to serve on TRACS. Specifically, the Administrator would like to augment the TRACS' existing knowledge base with professionals who have done academic research in the safety field.

**DATES:** Applications must be submitted no later than May 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Bruce Walker, Acting Designated Federal Officer, Office of Safety and Security, Federal Transit Administration, 202–366–0235 or *Bruce.Walker@dot.gov.* Applications should be submitted to *TRACS@dot.gov* or mailed to the Federal Transit Administration, Office of Safety and Security, Room E46–338, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Secretary of Transportation established TRACS for the purpose of providing a forum for the development, consideration, and communication of information from knowledgeable and independent perspectives regarding transit rail safety. Currently, the TRACS committee consists of members representing key constituencies affected by rail transit safety requirement, including rail safety experts, labor unions, transit agencies, and State safety oversight agencies. The FTA Administrator is now seeking to increase the representation from members of the academic community. Qualified individuals interested in serving on this committee are invited to apply to FTA for appointment. The nominees should be knowledgeable of the rail transit industry and shall have conducted research on the emerging trends or issues related to rail transit safety. The nominees will be evaluated mainly on academic experience but also the following factors: Leadership and organizational skills, region of country represented, and diversity characteristics. Each nomination should include: Proposed committee member's name and organizational affiliation, a cover letter describing the nominee's qualifications or interest in serving on the committee, a curriculum vitae or resume of the nominee's qualifications. Self-nominations are acceptable and each submission should include the following contact information: Nominee's name, address, phone number, fax number, and e-mail address. FTA prefers electronic submissions for all applications to *TRACS@dot.gov.* Applications will also be accepted via U.S. mail at the address identified in the **FOR FURTHER INFORMATION CONTACT** section of this notice. All applications must be submitted by May 27, 2011.

The TRACS meets approximately twice a year, usually in Washington, DC, but may meet more frequently or via conference call if the need arises. Members serve at their own expense and receive no salary from the Federal Government. FTA retains authority to review the participation of any TRACS member and to recommend changes at any time. TRACS meetings will be open to the public and one need not be a member of TRACS to attend. Interested parties may view the charter at *TRACS@dot.gov.* The Secretary of Transportation, in consultation with the FTA Administrator will be making the final selections.

**Therese McMillan,**

*Deputy Administrator.*

[FR Doc. 2011–10210 Filed 4–22–11; 4:15 pm]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Additional Designations, Foreign Narcotics Kingpin Designation Act

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of five individuals whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

**DATES:** The designation by the Acting Director of OFAC of the five individuals identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on April 20, 2011.

**FOR FURTHER INFORMATION CONTACT:** Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

**SUPPLEMENTARY INFORMATION:**

### Electronic and Facsimile Availability

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

### Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of foreign persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On April 20, 2011, the Acting Director of OFAC designated five individuals whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees is as follows:

1. BAYIK, Cemil; DOB 26 Feb 1955; alt. DOB 1951; alt. DOB 1954; POB Keban, Elazig, Turkey; alt. POB Hazar, Elazig, Turkey; citizen Turkey; Turkish Identification Number 23860719950 (Turkey) (individual) [SDNTK]
2. KALKAN, Duran (a.k.a. ERDEM, Selahattin); DOB 1954; alt. DOB 1958; POB Adana, Tufanbeyli, Turkey; alt. POB Derik, Turkey; citizen Turkey; Turkish Identification Number 18538165962 (Turkey) (individual) [SDNTK]
3. KARTAL, Remzi; DOB 5 May 1948; POB Van, Dibekozu, Turkey; citizen Turkey; Turkish Identification Number 10298480866 (Turkey) (individual) [SDNTK]
4. OK, Sabri; DOB 1958; POB Adiyaman, Turkey; citizen Turkey; Turkish Identification Number 15673320164 (Turkey) (individual) [SDNTK]
5. UZUN, Adem; DOB 7 Sep 1967; POB Kirsehir, Boztepe, Turkey; citizen Turkey; Turkish Identification Number 12203628318 (Turkey) (individual) [SDNTK]

Dated: April 20, 2011.

**Barbara Hammerle,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2011–10197 Filed 4–26–11; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 8937

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8937, Report of Organizational Actions Affecting Basis of Securities.

**DATES:** Written comments should be received on or before June 27, 2011 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of Organizational Actions Affecting Basis of Securities.

*OMB Number:* 1545–XXXX.

*Form Number:* 8937.

*Abstract:* Organizational actions that affect the basis of stock will be reported on this form. This form will be sent to stock holders of record and nominees affected.

*Current Actions:* New collection.

*Type of Review:* New collection.

*Affected Public:* Business or other for-profit institutions.

*Estimated Number of Respondents:* 50,000.

*Estimated Time per Respondent:* 4 hrs., 8 mins.

*Estimated Total Annual Burden Hours:* 206,500.

The following paragraph applies to all of the collections of information covered by this notice:

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 OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information 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.

Approved: April 12, 2011.

**Yvette Lawrence,**

*IRS Reports Clearance Officer.*

[FR Doc. 2011–10104 Filed 4–26–11; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Regulation Project

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to Sale of Residence From Qualified Personal Residence Trust.

**DATES:** Written comments should be received on or before June 27, 2011 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of this regulation should be directed to Joel Goldberger, (202)927–9368, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Joel.P.Goldberger@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Sale of Residence From Qualified Personal Residence Trust.

*OMB Number:* 1545–1485.

*Regulation Project Number:* T.D. 8743.

*Abstract:* Internal Revenue Code section 2702(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust.

Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 200.

*Estimated Time per Respondent:* 3 hours, 7 min.

*Estimated Total Annual Burden Hours:* 625 hours.

The following paragraph applies to all of the collections of information covered by this notice.

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 OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information 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.

Approved: April 20, 2011.

**Yvette B. Lawrence,**

*IRS Reports Clearance Officer.*

[FR Doc. 2011–10105 Filed 4–26–11; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Privacy Act of 1974, as Amended; Correction

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of Proposed New Privacy Act System of Records; Correction.

**SUMMARY:** The Department of the Treasury, on behalf of the Internal Revenue Service, published a document in the **Federal Register** on March 31, 2011, pertaining to a new Privacy Act system of records. The notice contained incorrect addresses.

**FOR FURTHER INFORMATION CONTACT:** Dale Underwood, Privacy Act Officer, Department of the Treasury, (202)–622–0874 (*dale.underwood@treasury.gov*).

*Correction*

In the **Federal Register** of March 31, 2011, in FR Doc. 2011–7629, on page 17997, in the second column, under "System Location", correct the location to read "IRS Campus, Ogden, Utah."

A further correction appears in FR Doc. 2011–7629, on page 17998, in the second column under "Records Access Procedures" correct the second sentence to read: "Inquiries should be addressed to the Disclosure Office listed in Appendix A serving the requester."

Dated: April 19, 2011.

**Melissa Hartman,**

*Deputy Assistant Secretary for Privacy, Transparency, and Records.*

[FR Doc. 2011–10198 Filed 4–26–11; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

### Financial Management Policies—Interest Rate Risk

**AGENCY:** Office of Thrift Supervision (OTS), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The proposed information collection request (ICR) described below has been submitted to the Office of Management and Budget (OMB) for review and approval, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. OTS is soliciting public comments on the proposal.

**DATES:** Submit written comments on or before May 27, 2011. A copy of this ICR, with applicable supporting documentation, can be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain.*

**ADDRESSES:** Send comments, referring to the collection by title of the proposal or by OMB approval number, to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, Attention: Desk Officer for OTS, U.S. Office of Management and Budget, 725 17th Street, NW., Room 10235,Washington DC 20503, or by fax to (202) 393–6974; and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906–6518, or by e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552 by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

**FOR FURTHER INFORMATION CONTACT:** For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills at, *ira.mills@ots.treas.gov,* or on (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:** OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

*Title of Proposal:* Financial Management Policies—Interest Rate Risk.

*OMB Number:* 1550–0094.

*Form Number:* N/A.

*Description:* This information collection covers the recordkeeping burden for maintaining data in accordance with OTS's regulation on interest rate risk procedures, 12 CFR 563.176. The purpose of the regulation is to ensure that institutions are appropriately managing their exposure to interest rate risk. To comply with this reporting requirement, institutions need to maintain sufficient records for determining how their interest rate risk exposure is being internally monitored and managed, and how their exposure compares with that of other institutions.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 727.

*Estimated Frequency of Response:* Quarterly and annually.

*Estimated Total Burden:* 29,080 hours.

Dated: April 21, 2011.

**Ira L. Mills,**

*Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.*

[FR Doc. 2011–10115 Filed 4–26–11; 8:45 am]

BILLING CODE 6720–01–P

# FEDERAL REGISTER

Vol. 76 Wednesday,

No. 81 April 27, 2011


Part II

## Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition and Proposed Rule To Remove the Morelet's Crocodile From the Federal List of Endangered and Threatened Wildlife; Proposed Rule

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**[Docket No. FWS–R9–ES–2010–0030; 92210–1113–0000–C6]**

**RIN 1018–AV22**

# Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition and Proposed Rule To Remove the Morelet's Crocodile From the Federal List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition and a proposed rule to remove the Morelet's crocodile (*Crocodylus moreletii*) throughout its range from the Federal List of Endangered and Threatened Wildlife due to recovery. This action is based on a thorough review of the best available scientific and commercial data, including new information that became available after we received the petition, which indicates that the species' status had improved to the point that the Morelet's crocodile is not likely to become threatened within the foreseeable future throughout all or a significant portion of its range. If this proposed rule is finalized, the Morelet's crocodile will remain protected under the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. We are seeking information, data, and comments from the public on this proposed rule.

**DATES:** To ensure that we are able to consider your comments on this proposed rule, they must be received or postmarked on or before June 27, 2011. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section below by June 13, 2011.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for docket number FWS–R9–ES–2010–0030 and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R9–ES–2010–0030; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept comments by e-mail or fax. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203, U.S.A.; telephone 703–358–2171; facsimile 703–358–1735. Individuals who are hearing-impaired or speech-impaired may call the Federal Information Relay Service at 800–877–8339 for TTY assistance 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

## Public Comments

Any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or other interested parties concerning this proposed rule. The comments that will be most useful and likely to influence our decisions are those supported by data or peer-reviewed studies and those that include citations to, and analyses of, applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular, we seek comments concerning the following:

(1) New biological, trade, or other relevant information and data concerning any threat (or lack thereof) to the Morelet's crocodile.

(2) New information and data on whether or not climate change is a threat to the Morelet's crocodile, what regional climate change models are available, and whether they are reliable and credible to use as step-down models for assessing the effect of climate change on the species and its habitat.

(3) The location of any additional populations of Morelet's crocodile.

(4) New information and data concerning the range, distribution, and population size and population trends of the Morelet's crocodile.

(5) New information and data on the current or planned activities within the geographic range of the Morelet's crocodile that may affect or benefit the species.

(6) New information and data concerning captive breeding operations in Mexico, Belize, and Guatemala.

(7) New information and data on the Morelet's crocodile in Guatemala that would enhance our analysis of whether this population qualifies as a Distinct Population Segment under the Act (16 U.S.C. 1531 *et seq.*), and whether this population warrants continued protection under the Act.

(8) Information and data concerning the status and results of monitoring actions for the Morelet's crocodile, including those implemented under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Belize-Guatemala-Mexico Tri-national Strategy for the Conservation and Sustainable Use of Morelet's Crocodile, and the Belizean monitoring plan that are discussed under the Post-Delisting Monitoring section below.

(9) Information pertaining to Belize's efforts to fully enact national legislation and/or their efforts to ensure Belize's compliance with CITES.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*) directs that a determination as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

Prior to issuing a final rule on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not consider comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. Please note that comments posted to this Web site are not immediately viewable. When you submit a comment, the system receives

it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail or hand-deliver a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy submissions on *http://www.regulations.gov.*

In addition, comments and materials we receive, as well as supporting documentation used in preparing this proposed rule, will be available for public inspection in two ways:

(1) You can view them on *http://www.regulations.gov.* In the Enter Keyword or ID box, enter FWS–R9–ES–2010–0030, which is the docket number for this rulemaking.

(2) You can make an appointment, during normal business hours, to view the comments and materials in person at the U.S. Fish and Wildlife Service's Endangered Species Program located in our Headquarters office (see **FOR FURTHER INFORMATION CONTACT**).

## 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—might 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.

## Public Hearing

Section 4(b)(5)(E) of the Act provides for one or more public hearings on this proposed rule, if requested. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by the date shown in the **DATES** section of this document. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the first hearing.

## Background

Section 4(b)(3)(A) of the Act requires the Service to make an initial finding as to whether a petition to list, delist, or reclassify a species has presented substantial information indicating that the requested action may be warranted. To the maximum extent practicable, the finding shall be made within 90 days following receipt of the petition and published promptly in the **Federal Register**. If the 90-day finding is positive—that is, the petition has presented substantial information indicating that the requested action may be warranted—section 4(b)(3)(A) of the Act requires the Service to commence a status review of the species if one has not already been initiated under the Service's internal candidate assessment process. In addition, section 4(b)(3)(B) of the Act requires the Service to make a finding within 12 months following receipt of the petition on whether the requested action is warranted, not warranted, or warranted but precluded by higher-priority listing actions. That finding is referred to as the "12-month finding."

## Previous Federal Actions

The Morelet's crocodile was listed as endangered throughout its entire range under the predecessor of the Act via a rule published in the **Federal Register** on June 2, 1970 (35 FR 8491). Import into, export from, or re-export from the United States, as well as other prohibitions, including movement in the course of a commercial activity and sale in interstate or foreign commerce, of endangered species and their parts and products, are prohibited under the Act unless otherwise authorized. Authorizations for endangered species can only be made for scientific purposes or to enhance the propagation or survival of the species. On July 1, 1975, the Morelet's crocodile was listed in Appendix I of CITES. These protections were put in place because the species had suffered substantial population declines throughout its range due to habitat destruction and overexploitation through the commercial crocodilian skin trade. CITES Appendix I includes species that are "threatened with extinction which are or may be affected by trade."

On May 26, 2005, the Service received a petition from the Government of Mexico's Comisión Nacional para el Conocimiento y Uso de la Biodiversidad (CONABIO 2005) to remove the Morelet's crocodile from the List of Endangered and Threatened Wildlife at 50 CFR 17.11.

Based on the information provided, the Service's 90-day finding on the petition, which was published in the **Federal Register** on June 28, 2006 (71 FR 36743), stated that the petition provided substantial information to indicate that the requested action may be warranted. In that finding, we announced that we had initiated a status review of the species as required under section 4(b)(3)(A) of the Act, and that we were seeking comments on the petition, as well as information on the status of the species, particularly in Belize and Guatemala. The Service also solicited comments or additional information from counterparts in Mexico, Belize and Guatemala.

This proposed rule to delist the Morelet's crocodile throughout its range also constitutes our 12-month finding that the petitioned action is warranted.

## Species Information

Three species of crocodilians occur in Mexico and Central America. The Morelet's crocodile and the American crocodile (*Crocodylus acutus*) co-occur in Mexico, Belize, and Guatemala (Schmidt 1924, pp. 79 and 85; Stuart 1948, p. 45). While their ranges overlap, the American crocodile has a much larger range than the Morelet's crocodile, and is found in the United States in the State of Florida, as well as in the Caribbean, on Pacific and Atlantic coasts of Central America and northern South America in Venezuela, Colombia, Ecuador, and northern Peru. A third species, the common or spectacled caiman (*Caiman crocodilus*) occurs in Mexico and Guatemala, but is absent from Belize. The distribution of the common caiman also extends into northern South America (Ross 1998, pp. 14–17; Thorbjarnarson 1992, pp. 82–85). The Morelet's crocodile was named after a French naturalist, P.M.A. Morelet (1809–1892), who discovered this species in Mexico in 1850 (Britton 2008, p. 1). The type locality of the species was later restricted to "Guatemala, El Peten, Laguna de Peten" when the species was scientifically described. In Mexico, the Morelet's crocodile is known as "lagarto" or "swamp crocodile" (Rodriguez-Quivedo et al, 2008).

The Morelet's crocodile is a "relatively small species" that usually attains a maximum length of approximately 9.8–11.5 ft (3–3.5 m (Sánchez (2005, p. 4); Britton (2008, p. 1)), with most wild adults ranging in length 6.6–8.2 ft (2–2.5 m). Hurley (2005, p. 2), however, reported specimens attaining 15.4 ft (4.7 m). Platt and Rainwater (2005, p. 25) stated that size estimates where shorter lengths were documented were probably based on populations that had been heavily impacted by hunting and which now contained few large adults. The Morelet's crocodile is distinguished

from other crocodiles, particularly the partially sympatric (having the same or overlapping distribution) and somewhat larger American crocodile, by the number of dorsal scales in each transverse row on its back, the number and arrangement of nuchal scales (located at the nape of the neck), and irregular scales on the ventrolateral (lower side) surface of the tail (Meerman 1994, p. 110; Navarro Serment 2004, pp. 55–56; Platt and Rainwater 2005, p. 27; Hernández Hurtado *et al.* 2006, p. 376; Platt *et al.* 2008b, p. 294). The Morelet's crocodile has six nuchal scales of similar size compared to other crocodile species, which have either four nuchal scales or four large nuchal scales and two small ones (CITES 2010a, p.11). Unlike most other species of crocodilians, the Morelet's crocodile lacks bony plates beneath the skin (osteoderms), making their skin more valuable as leather (Hurley 2005, p. 9). Adults have a yellowish-olive black skin, usually showing big black spots at the tail and at the back area, which in some adults can be entirely black. The ventral (underside) area is light in color, with a creamy yellowish tone. A thick and soft skin has made the Morelet's crocodile desirable for commercialization (CITES 2010a, p. 3).

Opportunistic carnivores, juvenile Morelet's crocodiles feed on small invertebrates, especially insects and arachnids, while subadults eat a more diverse diet including mollusks, crustaceans, fish, amphibians, and small reptiles. Adult crocodiles consume reptiles, birds, and mammals (Platt et al. 2002, p. 82; Sánchez 2005, p. 7; Platt *et al.* 2006, pp. 283–285; CITES 2008, p. 9, CITES 2010a, p. 3). This species is also known to exhibit necrophagy (consumption of dead animal carcasses over an extended period (several days)) and interspecific kleptoparasitism (stealing of food from an individual by another individual) (Platt *et al.* 2007, p. 310).

Morelet's crocodiles attain sexual maturity at about 4.9 ft (1.5 m) in length, at approximately 7–8 years of age. A growth rate of 0.63 inches (in) per month (1.6 centimeters (cm) per month) was observed in Morelet's crocodiles during the first 3 years of life under protected conditions in Mexico, while a rate of 0.94–1.18 in per month (2.4–3.0 cm per month) was achieved under farming conditions (Pérez-Higareda *et al.* 1995, p. 173). Adult females build nests and lay 20–40 eggs per clutch (Hurley 2005, p. 3; Sánchez 2005, p. 6), with an average of 35 eggs per clutch (CITES 2008, p. 9, CITES 2010a, p. 3). Nests, usually constructed of leaf mounds at the beginning of the wet season (April–June), are located on the shores of freshwater wetlands, as well as in coastal lagoons and mangrove patches (Platt *et al.* 2008a, pp. 179–182).

An analysis based on DNA microsatellite data from hatchlings collected at 10 Morelet's crocodile nests in Belize showed that progeny from five of the 10 nests were sired by at least two males (McVay *et al.* 2008, p. 643). These data suggested that multiple paternity was a mating strategy for the Morelet's crocodile and was not an isolated event. In addition, this information may be useful in the application of conservation and management techniques for the species.

The eggs of Morelet's crocodiles hatch in September–October, 65–90 days after they are laid. Females attend the nest during incubation, and can assist the newborns to leave the nest. Both parents protect juveniles against predators and other adult crocodiles (CITES 2010a, p. 3). Nest failures due to flooding and predation, both avian and mammalian, are common (Platt *et al.* 2008a, p. 184). Expected lifespan in the wild is 50–65 years (Hurley 2005, p. 4.) The Morelet's crocodile exhibits and shares with other crocodilians many acoustic and visual signals that convey reproductive, territorial, and other types of information (Senter 2008, p. 354).

The Morelet's crocodile occurs primarily in freshwater environments such as lakes, swamps, and slow-moving rivers, but can temporarily inhabit intermittent freshwater bodies, such as flooded savannahs, and occasionally observed in brackish coastal lagoons (Villegas 2006, p. 8). Floating and emergent vegetation provide cover to protect young crocodiles from predators, including cannibalism by adult crocodiles (Sánchez 2005, p. 7). In contrast to the Morelet's crocodile, the American crocodile feeds mainly on fish and occurs primarily in coastal or brackish environments, such as coastal mangrove swamps, brackish and salt water bays, lagoons, marshes, tidal rivers, and brackish creeks. American crocodiles can also be found in abandoned coastal canals and borrow pits and may range inland into freshwater environments preferred by the Morelet's crocodile such as lakes and lower reaches of large rivers. American and Morelet's crocodiles have been known to lay eggs within the same nest mound as conspecifics, suggesting a more gregarious and tolerant demeanor (Brien *et al.* 2007, pp. 17–18).

The historical distribution of the Morelet's crocodile comprised the eastern coastal plain of Mexico, most of the Yucatan Peninsula, Belize, and northern Guatemala (Hurley 2005, p. 1), with an estimated historical distribution covering 173,746 mi$^2$ (450,000 km$^2$) (Sigler and Domínguez Laso 2008, pp. 11–12). Based on the analyses conducted for the petition, approximately 51 percent of the original geographic distribution in Mexico remains undisturbed, while approximately 49 percent is disturbed or altered. In linear terms, the amount of undisturbed shoreline habitat available in Mexico to the Morelet's crocodile is about 15,534 mi (25,000 km) of shoreline, which is approximately 72 percent of the total undisturbed shoreline habitat available throughout the species' range. According to CONABIO, the amount of undisturbed shoreline habitat available to the Morelet's crocodile in Belize and Guatemala is estimated to be 2,050 mi (3,300 km) and 4,163 mi (6,700 km), respectively, or 9 and 19 percent of the total undisturbed shoreline habitat available throughout the species' range (CONABIO 2005, pp. 16–19).

Historical estimates of total population sizes in the three range countries are unavailable or imprecise, and we were not able to find any additional data on historical, range-wide population estimates for the species. While not quantifiable or documented by field surveys, Lee (1996, p. 134) characterized the historical distribution and abundance of the Morelet's crocodile in the Yucatan Peninsula of Mexico as follows: "Throughout its range, nearly every local aguada (flood) has (or had) its lagarto, which generally proves to be *C. moreletii*." The same probably could be said about Belize and Guatemala.

It has been widely reported, however, that by the middle of the 20th Century, populations of Morelet's crocodiles were widely depleted due primarily to overharvest for commercial purposes during the 1940s–1950s. In "Crocodiles: An action plan for their conservation," Thorbjarnarson (1992, p. 68 and the references cited therein) characterized the Mexican populations of Morelet's crocodiles in the early 1990s as very depleted in the Mexican States of Tamaulipas and Veracruz, recovering to some degree and viable in northeastern Mexico, and severely threatened in Tabasco State and Campeche State. However, populations of Morelet's crocodiles were not depleted in southern Chiapas State and eastern Quintana Roo State (Sian Ka'an Biosphere Reserve).

Few historical estimates for the Morelet's crocodile in Belize are available, but based on surveys during 1978 and 1979, Abercrombie *et al.*

(1980, p. 103) reported that very few adults were observed in areas where they had previously been relatively abundant. This condition was attributed to overexploitation (*i.e.,* commercial trade in hides). Thorbjarnarson (1992, p. 55) characterized the Morelet's crocodile populations in the early 1990s as generally depleted in the northern part of Belize, but relatively abundant in several other areas. Abercrombie *et al.* estimated the total population of Morelet's crocodiles older than 9 months of age in Belize at 2,200–2,500 individuals (Abercrombie *et al.* 1982, p. 16). Nothing was known in the scientific literature at that time about populations in the southern part of Belize. The only available countrywide estimates for the Morelet's crocodile in Belize suggested a total population size of 25,000–30,000 individuals that was declining in number in 1945, was near depletion between 1970 and 1980, and, in response to several protective measures, had undergone a slow recovery by 2000 to about 20,000 individuals (Finger *et al.* 2002, p. 199).

Thorbjarnarson (1992, p. 64) characterized the Guatemalan populations in the early 1990s as depleted, but capable of recovery. He indicated that 75 individuals had been reported at three lakes in the Petén Region, in the northern portion of the country, and that Morelet's crocodiles were known to be common in other parts of that region.

By the late 1990s, little had changed with regard to our knowledge of the distribution and abundance of the Morelet's crocodile. In "Crocodiles: Status survey and conservation action plan (second edition)," Ross (1998, pp. 46–47) characterized several populations of Morelet's crocodiles in all three countries as depleted. In some areas, however, including the Lacandón Forest (Chiapas State, Mexico) and the Sian Ka'an Biosphere Reserve (Quintana Roo State, Mexico), healthy populations of the Morelet's crocodile existed. These findings were based on anecdotal reports and incidental records; numerical data were not readily available.

Based on extrapolations of habitat relationships (*e.g.,* vegetation type, size of wetland/riverine feature, and disturbance factors; described in more detail in CONABIO 2005, pp. 16–19) and frequency of encounter rates (derived from country-specific field research), the potential global population of free-ranging Morelet's crocodiles in 2004 was estimated to be 102,432 individuals (all age classes; 79,718 individuals in Mexico, 8,803 in Belize, and 13,911 in Guatemala), including approximately 19,400 adults (CONABIO 2005, pp. 17–19).

**Summary of Factors Affecting the Species**

Section 4 of the Act and its implementing regulations, 50 CFR part 424, set forth the procedures for listing, reclassifying, or removing species from the Federal Lists of Endangered and Threatened Wildlife and Plants. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). Once the "species" is determined, we then evaluate whether that species may be endangered or threatened because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider these same five factors in reclassifying or delisting a species. For species that are already listed as endangered or threatened, the analysis of threats must include an evaluation of both the threats currently facing the species, and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened; and/or (3) the original scientific data used at the time the species was classified were in error.

*Factor A. Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range*

The overharvest for commercial purposes, rather than habitat destruction or modification, was the primary reason for the Morelet's crocodile being listed under the Act and its inclusion in CITES. However, the Five Factor Analysis under the Act requires an analysis of current and future potential impacts to the species based on modification or destruction of habitat.

The petition (CONABIO 2005) highlights habitat degradation as a potential threat, especially if it involves lack of prey and eventual contamination of water bodies. Currently, the extent of habitat degradation is estimated to be moderate in Mexico and Belize, and slightly higher in northern Petén, Guatemala (CONABIO 2005, Annex 1, p. 10). However, as stated previously, historical estimates of range-wide habitat destruction for the Morelet's crocodile are unavailable or imprecise. We found that the data on habitat destruction was primarily presented separately for each individual country. Therefore, the following analysis of the potential threats to the species from habitat destruction or modification first presents the specific information available for the Morelet's crocodile in each country, and then presents the general information that was available for the species as a whole.

**Mexico**

The Morelet's crocodile is known historically from 10 states in Mexico (from east to west): Quintana Roo, Yucatán, Campeche, Chiapas, Tabasco, Veracruz, Oaxaca, Hidalgo, San Luis Potosí, and Tamaulipas (Águilar 2005, p. 2). Based on available information and interviews during a 1995 site visit to Mexico by the IUCN Crocodile Specialist Group, Ross (1998, p. 13) suggested "with some confidence" that the Morelet's crocodile was widely distributed throughout most of its original range. At the request of the petitioner, these states were resurveyed to assess current Morelet's crocodile populations in those areas.

Surveys conducted between 2000 and 2004 documented the widespread distribution and relative abundance of wild populations of the Morelet's crocodile in Mexico (Domínguez-Laso *et al.* 2005, pp. 21–30; also summarized in Sánchez Herrera 2000, pp. 17–19; CONABIO 2005, pp. 11–13 and Annex 5; Sánchez Herrera and Álvarez-Romero 2008, page 415; García *et al.* 2007, pp. 31–32; Sigler and Domínguez Laso 2008, pp. 11–13). Surveys found Morelet's crocodiles at 63 sites across all 10 Mexican states comprising the species' entire historic range in Mexico (CONABIO 2005, p. 12). Habitat evaluations based on five environmental components rated habitat quality as excellent at 10 sites (24 percent), or as favorable or suitable at 24 sites (57 percent). Furthermore, evidence of the presence of the Morelet's crocodile was found in cultivated areas and at sites with "intermediate" quality habitats (CONABIO 2005, p. 13). This suggested that the Morelet's crocodile does not require undisturbed habitat in order to occupy a site. Habitat mapping resulted in an estimated minimum of 15,675 mi (25,227 km) of shoreline as suitable Morelet's crocodile habitat in Mexico, which is 72 percent of the estimated suitable shoreline habitat available throughout the species range (CONABIO 2005, pp. 14–16).

Population characteristics of the Morelet's crocodiles in Mexico were also determined during the 2000–2004 field surveys. All age classes were well represented (34 percent juveniles; 47 percent subadults; and 19 percent adults), indicating good recruitment (Domínguez-Laso *et al.* 2005, p. 31). A higher proportion of males to females (1.55 to 1 overall versus about 1 male per female) was observed in all age classes, except older subadults (Domínguez-Laso *et al.* 2005, pp. 33–34). Mean frequency of encounter, based on 62 localities surveyed—excluding one outlier site with an atypically large crocodile population—was 5.76 individuals per 0.62 mi (= 1 kilometer (km)) of shoreline (mode = 3.16 individuals per km); Domínguez-Laso *et al.* 2005, pp. 30, 40). These frequency of encounter rates were similar to those reported for other sites, for example: (1) Sigler *et al.* (2002, p. 222) reported rates of 8.33–18.5 individuals per km at various sites throughout Mexico and commented that these were the highest rates ever reported for that country; (2) Cedeño-Vázquez (2002, p. 353) reported rates of 1–2 individuals per km, when present (22 of 40 surveys; 711 individuals counted; all age classes represented; hatchlings in September), at Bahia de Chetumal and Río Hondo, Mexico (n = 17 sites) and commented on the recovery of the species; (3) Cedeño-Vázquez *et al.* (2006, p. 15) reported rates of 7.6 and 5.3 individuals per km at La Arrigueña, Campeche State, and commented that this suggested a healthy population. A population estimate—based on (a) extrapolations of 3.16 individuals per km, (b) 19 percent adults, and (c) a cautious estimate of occupied habitat (15,675 mi (25,227 km) of river habitat)—produced a result of approximately 79,718 wild individuals (all ages) in Mexico comprising 78 percent of the total wild population, including approximately 15,146 adults in Mexico (Domínguez-Laso 2005, p. 40).

New information now available to the Service documents updates in the geographic distribution of the Morelet's crocodile in Mexico. Because of several unauthorized introductions or escapes from captive-breeding facilities in areas outside of the reported range of the species, the Morelet's crocodile has become established in the wild at three sites: Chacahua, Oaxaca State; Villa Flores, Chiapas State; and Laguna de Alcuzahue, Colima State (Álvarez Romero *et al.* 2008, p. 415). Several captive-breeding facilities along the Pacific coast in western Mexico contain Morelet's crocodiles. These facilities are located in areas outside of the reported range of the species, but potentially with appropriate habitat for this species. Concerns have been raised about these introductions and the potential negative impacts of this "exotic" or "invasive" species on the local biota (Álvarez Romero *et al.* 2008, pp. 415 and 417). The Government of Mexico is making efforts to diagnose potential threats to the native American crocodile caused by hybridization with the introduced Morelet's crocodile on the Pacific coast of Mexico. The goal of these efforts is to generate morphological and molecular identification materials and study the population dynamics of the American crocodile. It will include monitoring and harvest of Morelet's crocodiles and hybrids for scientific research (CITES 2010a, p. 6).

According to the information presented in CONABIO 2005, the Morelet's crocodile in Mexico occupies at least 12 protected areas (CONABIO 2005, p. 30 and Annex 6). Part of the Sistema Nacional de Áreas Naturales Protegidas (SINANP or National System of Protected Natural Areas, described more fully in the Factor D section, Inadequacy of Existing Regulatory Mechanisms), encompasses 13 percent of the species' range and include the following areas: Los Tuxtlas Biosphere Reserve, Pantanos de Centla Biosphere Reserve, Laguna de Términos Biosphere Reserve, Hampolol Wildlife Conservation and Research Center, El Palmar State Preserve, Ría Lagartos Biosphere Reserve, Yum Balam Biosphere Reserve, Laguna Nichupte, Sian Ka'an Biosphere Reserve, Bahia Chetumal (Bay) and Río Hondo (River).

The Government of Mexico's 2010 CITES proposal to transfer the Morelet's crocodile from CITES Appendix I to CITES Appendix II provided updated information on the number of protected areas for the Morelet's crocodile in Mexico. About 77 Federal and certified protected areas in Mexico provide shelter and legal protection to the Morelet's crocodile in its potential range. Of these, 11 have records of the species covering 7,763,147 acres (ac) (3,141,634 hectares (ha)) (CITES 2010a, pp. 11, 17–20). The Government of Mexico designated eight of the eleven protected areas containing Morelet's crocodiles as Biosphere Reserves, and the three remaining protected areas containing Morelet's crocodiles as Flora and Fauna Protection Areas. As stated above, these protected areas are part of SINANP (described more fully in the Factor D section, Inadequacy of Existing Regulatory Mechanisms).

The Government of Mexico's 2010 CITES proposal used both a narrative description (CITES 2010a, p. 11) and a list (CITES 2010a, pp. 17–20) to indicate that there are 11 federally protected areas in Mexico containing Morelet's crocodile. CONABIO 2005 used a narrative description (CONABIO 2005, p. 30) to indicate that there are at least 12 federally protected areas in Mexico containing Morelet's crocodile (CONABIO 2005, p. 30), but did not include a list of the federally protected areas. Based on the information available to the Service, we were unable to find any additional data to explain the difference between in the numbers of federally protected areas cited in these two documents. The Government of Mexico's 2010 CITES proposal is the more recent document, and we consider it to contain the best available scientific and commercial data on the number of federally protected areas in Mexico.

The Convention on Wetlands of International Importance especially as Waterfowl Habitat (also known as the Ramsar Convention) is an intergovernmental treaty that provides a framework for international cooperation for the conservation of wetland habitats. CONABIO 2005 did not provide information on whether the Ramsar Convention protects any Morelet's crocodile habitat in Mexico. However, this information was included in the Government of Mexico's 2010 CITES proposal. According to their 2010 CITES proposal, there are 41 Ramsar sites in the potential range of the Morelet's crocodile in Mexico, 13 of which have records of the species covering 6,779,875 ac (2,743,718 ha) (CITES 2010a, pp. 11, 17–20).

According to the information presented in CONABIO 2005, one of the main potential threats to the Morelet's crocodile is habitat destruction and fragmentation due to residential and infrastructure development, such as dams, roads, residential areas, and irrigated fields (CONABIO 2005, Annex 2, pp. 4–5). The information presented in CONABIO 2005 indicated that land reform and the ensuing colonization of undeveloped areas is a potential threat to the Morelet's crocodile, but the Government of Mexico has no such actions planned at this time (CONABIO 2005, p. 33). This threat of habitat degradation is ameliorated in Mexico by the Ley General de Equilibrio Ecológico y Protección al Ambiente (LGEEPA; General Ecological Equilibrium and Environmental Protection Law). This 1988 law has strict restrictions against land use changes in Mexico, especially for undisturbed habitat such as those areas used by the Morelet's crocodile (CONABIO 2005, p. 25). This law is supported by several others in Mexico

that ensure the conservation of native flora and fauna in Mexico (see discussion in the Factor D section, Inadequacy of Existing Regulatory Mechanisms; also see CONABIO 2005, Annex 3).

According to the information presented by CONABIO, even in the historic context of prolonged habitat alteration, wild populations of Morelet's crocodiles remained abundant; so much so that large, commercial exploitation of the species was occurring up until Federal and international protections were put in place 40 years ago. Alteration of Morelet's crocodile habitat occurring since then may have produced some additional reductions in local populations, but these reductions are not comparable to those of the past. In addition, even in areas where changes to the original environment are not reversible, evidence points to a certain degree of tolerance by Morelet's crocodiles, especially when the habitat alterations are a result of agriculture or low technology livestock production (CONABIO 2005, p. 25).

Based on surveys, it appears that the Morelet's crocodile in Mexico occurs in all 10 states from where it traditionally has been reported (CONABIO 2005, pp. 11–19). Although approximately 49 percent of the original range in Mexico has been altered, much of the altered habitat is still occupied by the Morelet's crocodile. Approximately 77,220 $mi^2$ (200,000 $km^2$) of undisturbed habitat remains in Mexico, which is equivalent to approximately 15,534 mi (25,000 km) of shoreline. The Government of Mexico protects habitat occupied by the Morelet's crocodile in 11 areas designated by the Government of Mexico as either Biosphere Reserves or Flora and Fauna Protection Areas covering a total of 7,763,147 ac (3,141,634 ha). In addition, the Ramsar Convention protects Morelet's crocodile habitat at 13 sites in Mexico covering 6,779,875 ac (2,743,718 ha). We do not have any information or data on the amount of geographic overlap, if any, between the areas of habitat protected by the Government of Mexico versus that protected by the Ramsar Convention. Therefore, we considered these two protection mechanisms as providing separate, but complimentary, habitat protection as part of our analysis of habitat protection under this proposed rule.

We find that the information presented in the petition, as well as the additional information available to the Service, represents the best available scientific and commercial data on habitat destruction or modification for Morelet's crocodiles in Mexico. Although moderate habitat destruction or modification is currently affecting local populations of Morelet's crocodiles in Mexico, and this is likely to continue in the foreseeable future, these activities would not have a significant impact on the species because they would be subject to conservation measures under the Government of Mexico's regulatory framework. This framework will continue to provide adequate protection to the Morelet's crocodile and its habitat in the foreseeable future. Surveys conducted found Morelet's crocodiles at 63 sites across all 10 Mexican states comprising the species' entire historic range in Mexico (CONABIO 2005, p. 12). Given that Mexico contains more than 85 percent of the species' natural range, an estimated 78 percent of all wild individuals, that 7,763,147 ac (3,141,634 ha) of habitat are protected by the Government of Mexico, and that 6,779,875 ac (2,743,718 ha) of habitat are protected by the Ramsar Convention, we conclude that habitat destruction or modification is neither a threat, nor is it anticipated to significantly impact the Morelet's crocodile in Mexico in the foreseeable future.

**Belize**

The Morelet's crocodile was historically known from all six states in Belize (from north to south): Corozal, Orange Walk, Belize, Cayo, Stann Creek, and Toledo (Anonymous 1998). According to information provided by CONABIO, virtually all of the country contained suitable habitat for the species. The style of economic development in Belize has not required massive alteration of the natural environment. Thus, in general, no extensive and drastic alteration of Morelet's crocodile habitat has occurred in Belize (CONABIO 2005, p. 26). The current amount of altered versus unaltered current habitat for the Morelet's crocodile in Belize is unknown, but the petitioners estimated the current amount of potentially suitable habitat to be approximately 2,050 mi (3,300 km) of shoreline (CONABIO 2005, pp.14–19).

While the species is widespread in the northern portion of the country, it is naturally limited to a narrow region of lowlands along the coast in the southern part of Belize, which is otherwise mountainous (Schmidt 1924, p. 80; Abercrombie *et al.* 1982, pp. 12–16; Platt *et al.* 1999, p. 395; Platt and Thorbjarnarson 2000a, pp. 25–26). Although the Government of Belize was not a party to the petition, teams not associated with the Mexican effort to delist the species recently surveyed these states, in part, to assess Morelet's crocodile populations in those areas. Based on recent surveys, all six districts historically known to contain Morelet's crocodiles were surveyed in a general characterization of the biodiversity of Belize (Boles 2005, p. 4; Belize Forest Department 2006, p. 22; Biological-Diversity.info website 2009). At Spanish Creek Wildlife Sanctuary, in the north-central part of the country, Meerman *et al.* (2004, pp. 23–24 and 30–32) determined that the Morelet's crocodile was fairly common at the site (frequency of encounter rate = 1.4–2.4 individuals per km). At Mayflower Bocawina National Park, near the coast in the southeastern part of the country, Meerman *et al.* (2003b, p. 30) unexpectedly located the Morelet's crocodile at fast-flowing streams such as Silk Grass Creek. While this specimen could have been introduced at the site, its occurrence could also be natural. Along the Macal River, in west-central Belize, Stafford *et al.* (2003, pp. 18 and 20) located a breeding population of the Morelet's crocodile (frequency of encounter rate = 1.48 individuals per km) (2001) and 1.25 individuals per km (2002) at a mountainous site at 1,476 ft (450 m) elevation (higher than expected). A total population size at the Macal River site was calculated to be, at minimum, about 94 individuals (Stafford *et al.* 2003, p. 19).

Earlier comparisons between spotlight surveys conducted in northern Belize in 1979–1980 and 1992–1997 also showed that Morelet's crocodiles were widely distributed and relatively abundant across several habitat types and levels of human accessibility (Platt and Thorbjarnarson 2000b, p. 23). In addition to an extensive system of nature reserves including significant areas of crocodile habitat, these researchers noted relatively high Morelet's crocodile encounter rates in wetlands surrounding sugarcane fields in this area. Morelet's crocodiles were observed in canals and ditches within the municipal limits of Belize City and Orange Walk, as well as in wetlands easily accessible from many villages (Platt and Thorbjarnarson 2000b, p. 23).

Population characteristics of Morelet's crocodiles in Belize were also determined during these surveys. Size class distribution—25.4 percent adults in the 1990s, compared with 5–10 percent in an earlier study—was consistent with population recovery from past overexploitation (Platt and Thorbjarnarson 2000b, p. 24). Platt and Thorbjarnarson (2000b, pp. 23, 26) reported an overall frequency of encounter of 1.56 individuals per km; encounter rates were much higher in

nonalluvial (8.20 individuals per km) and alluvial (6.11 individuals per km) lagoons than in rivers and creeks (0.95 individuals per km) or in mangrove habitats (0.24 individuals per km). While a significant, male-biased sex ratio (5.3 males per 1 female versus about 1 male per female) was identified, the reasons were unclear (Platt and Thorbjarnarson 2000a, pp. 23, 27). Based on extrapolations of habitat relationships in Mexico (which results in an estimated 2,080 mi (3,347 km) of potential habitat in Belize) and an average frequency of encounter of 2.63 individuals per km, CONABIO stated that these results suggested a total Belize population estimate for the Morelet's crocodile of about 8,803 individuals in the wild (all age classes), comprising 9 percent of the total wild population, including about 1,673 adults (CONABIO 2005, p. 18). Although this is not a typically constructed population estimate, this estimate constitutes the best available scientific and commercial data for the nationwide abundance of Morelet's crocodiles in Belize. Although Platt suggested that these overall values for Belize may be somewhat inflated because habitat in southern Belize is less suitable for Morelet's crocodiles than areas in the north (Platt 2008, pers. comm.), frequency of encounter values for Morelet's crocodile populations and total population sizes in Belize may have further increased due to continued protection for over a decade since these surveys in the 1990s. Boles (2005, p. 4) and Belize Forest Department (2006, p. 22), based on countrywide analyses, both suggested that the Morelet's crocodile had "recovered" in Belize and could be categorized as "healthy."

CONABIO did not present information about the distribution and abundance of the Morelet's crocodile in protected areas in Belize. Other information obtained by the Service, however, suggests that the species is present in many protected areas in Belize, including: Sarstoon Temash National Park (Meerman *et al.* 2003a, p. 45), Mayflower Bocawina National Park (Meerman, *et al.* 2003b, p. 30), and Spanish Creek Wildlife Sanctuary (Meerman *et al.* 2004, pp. 30–31). Overall, about 18–26 percent of the national territory of Belize is under some form of protection (BERDS 2005b, p. 1; Young 2008, p. 29). In several of these protected areas, natural resource extraction is permitted from the site, thus potentially limiting their contribution to the conservation status of the Morelet's crocodile. However, we have no evidence that resource extraction in these Belizean protected areas is currently or anticipated to affect significantly the Morelet's crocodile.

We find that the data presented by CONABIO, and additional data available to the Service, represents the best available scientific and commercial data on habitat destruction or modification for Morelet's crocodiles in Belize. Although habitat destruction or modification is currently affecting some local populations of Morelet's crocodiles in Belize, and this is likely to continue in the foreseeable future, we do not have any evidence that habitat destruction or modification is currently or anticipated to be a threat to the Morelet's crocodile in Belize.

**Guatemala**

The Morelet's crocodile was historically known from the northern portion of Guatemala (States of Petén and Alta Verapaz; Schmidt 1924, pp. 79–84). According to information provided by CONABIO, the Petén region of Guatemala was scarcely populated by humans before 1960 (an estimated 15,000 to 21,000 inhabitants in approximately 12,960 square miles (33,566 km$^2$) or about one third of Guatemala's area) (CONABIO 2005). In 1961, the Government of Guatemala started an official program to foster colonization in the region, and this caused environmental alteration, as well as increased human conflicts with crocodiles. Slightly more than 50 percent of the potential habitat for the Morelet's crocodile has been altered in Guatemala (CONABIO 2005, p. 26). While the current amount of altered versus unaltered habitat for the Morelet's crocodile in Guatemala is unknown, the petitioners estimated the current amount of potentially suitable habitat to be approximately 4,163 mi (6,700 km) of shoreline (CONABIO 2005, pp.14–19). According to information provided by CONABIO, studies on the status of Morelet's crocodile habitat and population in Guatemala are underway, and the potential threats to the species are under assessment (CONABIO 2005, p. 26).

Recent nationwide survey results are not available for Guatemala, but populations appear to remain in their historical range in the northern part of the country, especially the central portion of the State of Petén, Laguna del Tigre National Park (northwestern portion of the State of Petén) (Castañeda Moya *et al.* 2000, p.63) and the El Mirador-Río Azul National Park (ParksWatch, 2002, page 3). The Laguna del Tigre National Park, the largest national park in Guatemala and the largest protected wetland in Central America, is home to the largest numbers of Morelet's crocodiles in Guatemala (ParksWatch 2003, p. 1).

While information regarding the distribution and abundance of Morelet's crocodile in Guatemala is sparse, investigations conducted in Laguna del Tigre National Park (date unspecified, reported in 1998) estimated 4.35 individuals per km in the Sacluc River and 2.1 individuals per km in the San Pedro River, with a population structure typical of stable populations (Castañeda Moya 1998a, p. 13). Castañeda Moya (1997, p. 1; 1998a, p. 521) characterized Morelet's crocodile distribution in the northern State of Petén, Guatemala, as fragmented, with the healthiest populations in the northern region of Petén, where human impact was lower. In a follow-up study at Laguna del Tigre National Park Castañeda Moya *et al.* (2000, pp. 62–63) reported a mean frequency of encounter rate for the entire park of 4.3 individuals per km, with maximum values of 12.28 individuals per km at Flor de Luna and 11.00 individuals per km at Laguna La Pista. The Morelet's crocodile was more frequently encountered in closed aquatic systems than in open aquatic systems. Juveniles were more frequently observed than were adults.

Based on extrapolations of habitat relationships in Mexico (which resulted in an estimated 4,159.8 mi (6,694.5 km) of potential habitat in Guatemala) and an average frequency of encounter of 2.078 individuals per km, CONABIO stated that there is an estimated total Guatemalan population of Morelet's crocodile of about 13,911 individuals in the wild (all age classes) comprising 13 percent of the total wild population, including about 2,643 adults (CONABIO 2005, p. 18). Although this is not a typically constructed population estimate, this population estimate constitutes the best available scientific and commercial data for the nationwide abundance of Morelet's crocodiles in Guatemala.

While Guatemala has regulatory mechanisms in place to protect these habitats, it appears that the Government of Guatemala, until recently, was not able to enforce them adequately. Resource extraction, drug trade, a lack of enforcement, and financial issues limited protected areas' potential contribution to the conservation status of the Morelet's crocodile (IARNA URL IIA 2006, pp. 88–92). For example, the Laguna del Tigre National Park, together with the Laguna del Tigre Protected Biotope, was considered critically threatened by drug trade, land grabs, the presence of human settlements, expanding agriculture and cattle

ranching, poaching, forest fires, the oil industry, and the almost complete lack of institutional control over the area (ParksWatch 2003, p. 11.) ParksWatch also deemed this national park, and its surrounding area, would not meet its biological diversity objectives in the immediate future unless urgent steps were taken (ParksWatch 2003, p. 11.) However, the following year ParksWatch noted major improvements at Laguna del Tigre since their 2003 report. We have obtained information on the specific protections recently provided to Morelet's crocodiles in the conservation areas of Guatemala, and events that reveal a commitment by the Guatemalan government to curtail illegal activities harmful to Laguna del Tigre National Park. We will go into detail in the Factor D section, *Inadequacy of Existing Regulatory Mechanisms.*

Castañeda Moya *et al.* (2000, p. 61), based on historical references, cited increased destruction of habitat due to human encroachment as having an adverse affect on the species. Based on the research at Laguna del Tigre National Park, Castañeda Moya *et al.* (2000, pp. 61 and 65) indicated that sibal (sawgrass) (*Cladium jamaicense*) was extensively burned each year. This burning constituted a major impact to the Morelet's crocodile habitat, as sibal habitat offered suitable insulation, food availability, nesting cover, and protection from predators. Furthermore, the fires facilitated the expansion of savannahs consisting almost exclusively of jimbal (*Bambusa longifolia*). Studies on the Morelet's crocodile in Petén suggest fires in jimbal groves prevent Morelet's crocodiles from reproducing since fire affects nesting sites (ParksWatch 2003, p. 13). In a more general sense, USAID (2002, pp. 19–23) and Ruiz Ordoñez (2005, pp. 2–8) indicated several conservation threats at the national level in Guatemala, including habitat loss, habitat degradation, habitat fragmentation, overutilization of resources, environmental contamination, and degradation, and the introduction of exotic species.

For the past ten years, USAID and WCS having been working with other NGOs and the Guatemalan government to combat these issues. In their "Maya Biosphere Landscape Conservation Area, Guatemala, Implementation Plan FY 2008" (WCS 2009, page 3) the WCS highlighted their central goals for ensuring the conservation of wide-ranging target species, including the Morelet's crocodile, was to contain the advance of the Laguna del Tigre agro-pastoral frontier and maintain the comparatively intact eastern bloc of the Maya Biosphere Reserve (MBR) forest. Strategies to reduce impacts to wildlife in the MBR landscape include involving people in local communities, forest concessions, governments, and NGOs in local conservation efforts; developing adaptive management strategies to address tactically threats across the landscape; and educating local communities on best management practices across the MBR and beyond. Since 2003, however, efforts by the Wildlife Conservation Society (WCS) have reduced areas burned in the MBR in Guatemala. Through educating locals on best management practices, conducting aerial flights, utilizing remote sensing to monitor changes in forest cover and fire, and establishing and patrolling a 47-kilometer fire break, along with regularly reporting to the Guatemalan and provincial governments and national media, WCS's efforts have resulted in a 90% reduction in areas burned in the Laguna del Tigre portion of the MBR (WCS 2009).

In addition, the president of Guatemala recently deployed 250 specially trained soldiers to recover fully all the protected zones of El Peten in Laguna del Tigre National Park. The contingent, called the "green battalion" will work jointly with the Guatemalan Attorney General's Office. This effort is aimed at combating drug trafficking and removal or destruction of natural and archeological resources in Laguna del Tigre, El Peten region of the MBR (Latin American Herald Tribune, 2010).

El Mirador-Río Azul National Park in northeastern Guatemala is located in the department of Petén maintains a population of Morelet's crocodiles (ParksWatch 2002, page 3). The park is composed of two sections, which are divided by the Dos Lagunas Biotope. The western section is known as El Mirador and the eastern part is known as Río Azul. This area is considered by World Resources Institute to be the last pristine Guatemalan rainforest. It is also one of the few protected areas that have experienced little deforestation over the years. No permanent human residents live within the park borders or in its immediate surrounding areas. El Mirador-Río Azul National Park is considered *vulnerable,* by ParksWatch, meaning that immediate conservation measures are not needed at this time, but monitoring is necessary to ensure the protection and maintenance of its biological diversity in the near future (ParksWatch, 2002, page 3). NGO's such as Asociación Balam, WCS-Guatemala, the Asociatión of Forest Communities of Petén (ACOFOP), the Guatemalan National Park Service (CONAP), the Guatemalan Archeological Institute (IDAEH), and the office of the Executive Secretary of the President of Guatemala formed an alliance called the "Mesa Multisectorial para el Area Natural y Cultural de Mirador-Rio Azule". This alliance was formed to develop consensus among its team members regarding the long-term protection of the park and provide sustained economic contribution to the people of the MBR and of Guatemala.

While CONABIO estimated that slightly more than 50 percent of the potential habitat for the Morelet's crocodile has been altered in Guatemala, they gave no information indicating to what extent (CONABIO 2005, p. 26). Very little information has been collected about the consequences of forest fires, hunting, and habitat fragmentation to the Morelet's crocodile. However, Mexico saw the presence of the Morelet's crocodile in cultivated areas and at sites with "intermediate" quality habitats (CONABIO 2005, p. 13) and Belize noted relatively high Morelet's crocodile encounter rates in wetlands surrounding sugarcane fields, canals and ditches within the municipal limits of Belize (Platt and Thorbjarnarson 2000b, p. 23). This information suggests that the Morelet's crocodile does not require undisturbed habitat in order to occupy a site. The current amount of altered versus unaltered habitat for the Morelet's crocodile in Guatemala is unknown, but the petitioners estimated the current amount of potentially suitable habitat to be approximately 4,163 mi (6,700 km) of shoreline (CONABIO 2005, pp.14–19).

**Other Threats to the Species' Habitat**

*Recreational and Educational Activities*

Nonconsumptive recreational or educational uses in the form of ecotourism are ongoing and may grow in magnitude in the future. While CONABIO did not present precise information about the number of companies or sites visited by tourists, an informal Internet search suggested that large numbers of ecotourism companies and nature sites in all three range countries were involved in this activity. At Tikal National Park in Guatemala, for example, the number of visitors has increased from 14,594 visitors in 1981 to 141,899 visitors in 2002 (IARNA URL IIA 2006, p. 103). Many of these visitors potentially visited Morelet's crocodile areas in the Petén Region that are in the immediate vicinity of the park as part of their ecotourism experience.

While we cannot completely rule out the potential for adverse effects to the Morelet's crocodile due to disturbance

from ecotourism activity in Tikal National Park, we have found no evidence of such effects. Furthermore, we do not have any information to indicate that ecotourism is likely to become a serious problem in the future. Successful ecotourism, by its very nature, relies on the continued conservation and protection of the natural resources it uses. Although the number of visitors to protected areas is increasing and the demand for ecotourism may grow in the future, the ecotourism industry has a significant incentive to ensure that their activities do not become a serious problem to the Morelet's crocodile and its habitat in the future.

Mazzotti *et al.* (2005, p. 984), however, did identify the following negative impacts associated with tourism development at Sian Ka'an Biosphere Reserve (Mexico):

(1) Habitat loss;
(2) Alteration of surface and underground water flow;
(3) Ground water pollution;
(4) Extraction of resources;
(5) Erosion and sedimentation;
(6) Decrease in biodiversity; and
(7) Reduced traditional and recreational use for local communities.

Visual pollution, including trash, as well as "jeep safaris" (caravans of small convertible sports utility vehicles being driven through the reserve) and boat traffic, is also increasing at Sian Ka'an Biosphere Reserve (Mazzotti *et al.* 2005, p. 992). While none of these factors was specifically linked to the Morelet's crocodile, all could apply were the situation to deteriorate. However, we do not have any information to indicate that the situation will deteriorate in the future. Biosphere Reserves in Mexico are part of the United Nations Educational, Scientific, and Cultural Organization's (UNESCO) "Man and the Biosphere" program and are legally protected under Mexican federal laws. Key features of biosphere reserves are core zones of complete protection of key resources surrounded by mixed-use buffer zones. These buffer zones are particularly important given the pressures on the Sian Ka'an Biosphere Reserve from tourism, and its culturally and archeologically significant areas (Mazzotti *et al.* 2005, p. 982). Recognizing these potential negative factors, geographically dispersed ecotourism involving limited numbers of visitors under controlled conditions to observe and photograph specimens from canoes, photographic blinds, or hiking trails can provide relatively benign opportunities to local residents for economic benefits that can serve as an alternative or disincentive to harvest the Morelet's crocodile (CONABIO 2005, p. 28).

There is also evidence that ecotourism, as well as scientific research and wildlife conservation, are compatible activities with respect to the Morelet's crocodile. In Mexico, for example, ecotourists accompany biologists associated with the Amigos de Sian Ka'an group as they conduct surveys of the Morelet's crocodile at Sian Ka'an Biosphere Reserve, along the eastern coast of the Yucatan Peninsula, Quintana Roo State (EcoColors Tours 2010, pp. 1). At another site, the La Ventanilla Eco-tourism Project in Oaxaca State, Mexico, international volunteers assist local residents and biologists to conserve the Morelet's crocodile, turtles, iguanas, and other species of wildlife (Volunteers for International Partnership—Mexico 2010, 1–4). In Belize, tourists, as well as wildlife researchers from the United States and their Belizean counterparts, are implementing an ecological field study of the Morelet's crocodile at Lamanai Outpost Lodge and Research Station that eventually will lead to the development of a national management plan for the species (The Croc Docs 2010, pp. 1–6). If the biological data, in part collected by the ecotourists, support harvest, and effective enforcement regulations can be developed and implemented, this plan may include commercial exploitation of the Morelet's crocodile. In Guatemala, scientists and ecotourists are working cooperatively with the ProPetén group to undertake conservation work at the Scarlet Macaw Biological Station in the Maya Biosphere Reserve (ProPeten 2009, p. 1). While these activities differ with regard to specific details, in general they provide positive conservation benefits to the Morelet's crocodile and demonstrate that ecotourism, as well as scientific research and wildlife conservation, can be compatible with respect to the species.

*Agriculture, Grazing, and Infrastructure Development*

Agriculture, grazing, and infrastructure development (such as dams, roads, residential areas, and irrigated fields) generally are indirect impacts in that the purpose of the action is not focused on the crocodile. These activities can be either consumptive (for example, destruction of nests and eggs by machinery) or nonconsumptive (for example, loss of access to traditional nesting or feeding sites), and are generally manifested through habitat loss or fragmentation. Depending on the nature and extent of these activities, they may have a substantial negative impact on local Morelet's crocodile populations. Although agriculture, grazing, and infrastructure development are currently affecting local populations of Morelet's crocodiles, and this is likely to continue in the foreseeable future, we do not have any evidence that these activities are currently or anticipated to be a range-wide threat to the Morelet's crocodile.

*Summary of Factor A*

Although some habitat degradation has occurred in Mexico, this threat is ameliorated by the LGEEPA. This law has strict restrictions against land use changes in Mexico, especially for undisturbed habitat such as those areas used by the Morelet's crocodile (CONABIO 2005, p. 25). The Sistema Nacional de Áreas Naturales Protegidas (SINANP) also provides significant habitat protection in Mexico. The SINANP created designated protected areas because these areas contain key or representative ecosystems or species, or ecosystems or species that are at risk and require strict control. In Mexico, at least 11 protected areas contain populations of the Morelet's crocodile (CITES 2010a, pp. 17–20). In Belize, at least three protected areas contain Morelet's crocodile populations (Meerman *et al.* 2003a, p. 45; Meerman *et al.* 2003b, p. 30; and Meerman *et al.* 2004, pp. 30–31). Mexico and Belize contain the majority of all wild Morelet's crocodiles (87 percent) and the majority of the potentially suitable habitat throughout the species' range (81 percent). We find that, although habitat destruction and modification is affecting individual crocodiles locally, the overall level of habitat protection in Mexico and Belize is currently adequate and we anticipate that it will remain so.

Based on current information, Guatemala contains the remaining 13 percent of the wild Morelet's crocodiles and the remaining 19 percent of the potentially suitable habitat throughout the species' range. Although the Morelet's crocodile occupies at least two protected areas in Guatemala (Castañeda Moya *et al.* 2000, p. 63), one, the El Mirador-Río Azul National Park has no permanent human presence either in or surrounding the park and contains the last pristine rainforest in Guatemala which has experienced very little deforestation. The NGO community has partnered with the President of Guatemala to establish a coalition to ensure long-term protection of this important national park, while providing for sustainable economic incentives to the people of the MBR and of Guatemala. The second protected

area, Laguna del Tigre National Park, has been affected by past human encroachment, fire, deforestation, grazing, and infrastructure development. Although these factors may have affected local populations of Morelet's crocodiles, we have no evidence that it has affected the species range-wide. The government of Guatemala and the local and international NGO community have again partnered to address these issues through direct interventions; including local and international community in conservation efforts; and educating people on the use of best management practices. These efforts have resulted in a 90% reduction in fires in Laguna del Tigre National Park, and the successful interdiction of individuals conducting unlawful activities.

Despite the localized impacts in all three countries, the current range-wide distribution of Morelet's crocodile now closely resembles historical range-wide distribution. The species has existing available high quality habitat, healthy population distribution, is abundant at known sites and it is expanding into new sites. Even in the face of habitat alteration, this species has been shown to occupy disturbed habitat. There have been observed increases in the relative abundance of the species, and a total population size of approximately 19,400 adults in the three range countries. Species experts now widely characterize Morelet's crocodile populations as healthy. Although some local factors continue to affect the habitat for Morelet's crocodile, we have no information to indicate that these local factors are of sufficient magnitude to have a range-wide impact on the species to the point that would cause the Morelet's crocodile to meet the definition of either an endangered or a threatened species. Therefore, we find that the present or threatened destruction, modification, or curtailment of its habitat or range is not likely to threaten or endanger the Morelet's crocodile in the foreseeable future.

*Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes*

Commercial Harvest (Legal and Illegal Trade)

The Morelet's crocodile was included in Appendix I of CITES on July 1, 1975. Species included in Appendix I are species threatened with extinction that are or may be affected by trade. CITES prohibits international trade in specimens of these species unless the trade is found to be not detrimental to the survival of the species, the specimens in trade were legally acquired, and the purpose of the import is not for primarily commercial purposes or the specimen meets one of the exemptions established under the CITES Treaty. A more thorough explanation of CITES is found in the "*Convention on International Trade in Endangered Species of Wild Fauna and Flora*" discussion under the section *Factor D. Inadequacy of Existing Regulatory Mechanisms.*

Overexploitation for commercial purposes prior to 1970 is widely accepted as the primary cause of a drastic, range-wide population decline of Morelet's crocodile (Platt and Thorbjarnarson 2000b, p. 21; CONABIO 2005, p. 27). Historically, commercial overexploitation, through the harvest of adult animals from the wild, was a much greater threat to the Morelet's crocodile than habitat loss. During the first half of the 20th century, hundreds of thousands of skins per year were marketed (CITES 2008, pp. 17, 20). The precise magnitude of the trade is unclear however, because trade data for the Morelet's crocodile was recorded at a higher taxonomic level incorporating other crocodilians. See, for example, Loa Loza 1998a, pp. 134–135; Arroyo-Quiroz et al. 2007, p. 933. It is reported that prior to 1975, hide dealers in Belize purchased up to 12,000 skins annually, and an unknown number of skins were exported illegally in contravention to Mexican law (Plat and Thorbjarnarson 2000b, p. 21). Precise estimates of historical trade from Mexico or Guatemala were unavailable. Even now, the commercial market for designer fashion items made from high quality crocodile skins, such as leather belts, footwear, wallets, and handbags, is highly lucrative. For example, a single pair of shoes may retail for hundreds of dollars, a handbag for several thousand dollars, and a tote bag for tens of thousands of dollars.

*Legal Trade*

In 1997, the Government of Mexico established a system for registering, supervising, and enforcing Unidad de Manejo y Administración (UMAs; Conservation Management and Administrative Units) for intensive reproduction of economically valuable natural resources, including the captive breeding of Morelet's crocodiles (CONABIO 2005, Annex 3, pp. 3–5). Commercial use of Morelet's crocodiles in Mexico for domestic trade was strictly limited to animals raised in closed-cycle, captive-breeding operations regulated by the Government of Mexico under the UMA system. For international trade, commercial trade was restricted to animals raised in these closed-cycle, captive-breeding operations registered with the CITES Secretariat. In order for these closed-cycle, captive-breeding operations to be successful, great care was given to satisfying the biological requirements of the species (Cremieux *et al.* 2005, p. 417; Brien *et al.* 2007, pp. 1–26). According to León Velázquez (2004, p. 52), there were approximately 30,000 Morelet's crocodiles in captive-breeding facilities in Mexico in 2004. There were 38,449 Morelet's crocodiles housed in 19 Mexican closed-cycle captive-breeding operations in 2008 (CITES 2010a, p. 24). Currently, the annual production of Morelet's crocodiles in Mexican closed-cycle captive-breeding operations does not exceed 40,000 individuals (CITES 2010a, p. 8).

Under Mexican law, closed-cycle captive-breeding operations wishing to make their Morelet's crocodiles available for commercial use must demonstrate that they are able to go beyond the F2 generation of reproducing individuals. This requirement supports the use of Morelet's crocodiles that is compatible with conservation of the species by offsetting the demand for crocodiles taken from the wild. Such facilities produced a variety of items including skins/hides, meat, live individuals as pets, stuffed figurines, and leather products (fashion accessories) for both domestic and international trade.

Based on CITES annual reports for the period 1996–2005, Caldwell (2007, pp. 6–7) noted relatively low levels of international legal trade in products from Mexican captive-breeding operations during 1996–1999 (fewer than 200 skins/year), but higher levels during 2000–2005 (2,430 skins in 2001; 1,591 skins in 2002; and below 1,000 skins per year during the rest of the period). Japan has been the main importer of products from Mexican captive-breeding operations, with lesser quantities going to France, Italy, the Republic of Korea, and Spain (Caldwell 2007, p. 6).

The United Nations Environment Programme—World Conservation Monitoring Centre (UNEP–WCMC) manages a trade database on behalf of the CITES Secretariat. Each Party to CITES is responsible for compiling annual reports to the CITES Secretariat regarding their country's trade in species protected under CITES. UNEP–WCMC enters the data from these annual reports into a trade database, which is used to analyze trade in CITES specimens. Due to the time needed to compile the data, the most recent year

for which comprehensive trade statistics are available is normally two years prior to the current year.

In general, prior to 2010, international legal trade consisted of small quantities of unfinished hides/skins or finished leather products, exported primarily from Mexico to Japan and European countries, as well as biological specimens destined for research. These countries process the unfinished hides/skins into leather products such as belts, footwear, wallets, and handbags that in turn are sold within their own country or re-exported for sale to other countries. Due to the listing status of the species under the Act, the United States cannot be a commercial destination for Morelet's crocodile skins and products. It is currently illegal to import Morelet's crocodile skins and products into the United States, unless the import is for scientific or enhancement purposes.

In 2010, the Government of Mexico submitted a proposal to the 15th Meeting of the CITES Conference of the Parties (CoP15) to transfer the Morelet's crocodile throughout its range to Appendix II of CITES with a zero quota for trade in wild specimens because the Government of Mexico concluded that the Morelet's crocodile no longer met the criteria for inclusion in Appendix I (CITES 2010a, p. 1). Consistent with a request from Guatemala (CITES 2010a, Annex 4, page 25), the Government of Mexico amended their proposal by adding the words "for commercial purposes" after "with a zero quota for trade in wild specimens". In addition, the Government of Guatemala opposed the initial CITES proposal to downlist the species throughout its range based on the lack of knowledge of the population and population trends in Guatemala, threats to the species from deforestation and pollution in Guatemala, and the possibility of illegal, cross-border trade taking place from Guatemala. Because of Guatemala's concerns, Mexico requested that the vote be split, with the Mexico and Belize populations considered separately from the Guatemala's population. The proposal to downlist the Mexico and Belize populations to CITES Appendix II with a zero quota for wild specimens for commercial purposes was adopted by consensus. Mexico then withdrew its proposal to downlist the Guatemala population, leaving that population in CITES Appendix I. As a result, only Morelet's crocodiles in Mexico and Belize were transferred to CITES Appendix II. Morelet's crocodiles in Guatemala remain in CITES Appendix I (CITES 2010b, p. 1). The new CITES designations became effective on June 23, 2010. Please see the discussion in the Factor D section, Inadequacy of Existing Regulatory Mechanisms, for additional information on the change in CITES designation for the Morelet's crocodile.

According to the 2010 CITES proposal to transfer the Morelet's crocodile to Appendix II, the UNEP–WCMC CITES Trade Database showed that, until 2007, the parts and derivatives of the Morelet's crocodile most commonly found in trade were skins, skin pieces and leather products, although other products include live specimens, eggs, bodies, scales, skulls and shoes were also traded. The largest exporter between 2001 and 2007 was Mexico (8,498 skins, 750 skin pieces and 1,193 leather products), followed by Belize with 116 bodies, 766 eggs and 3,124 specimens for scientific purposes (exported to the United States). The major importing countries were Japan (6,170 skins), United States (3,124 specimens for scientific purposes), Italy (1,219 skins), the Republic of Korea (560 skins), France (375 skins) and Spain (162 skins) (CITES 2010a, p. 8).

According to the CITES (CITES 2010a) proposal to transfer the Morelet's crocodile to Appendix II, the national harvest of animals from closed-cycle operations authorized in Mexico amounts to fewer than 2,000 skins per year since the year 2000. In the period between 2000 and 2009, 119 CITES export permits were issued in Mexico for a total of 12,276 Morelet's crocodile skins. However, the total potential production from closed-cycle captive-breeding operations was about 16,500 individuals and approximately 10,000 skins per year (CITES 2010a, p. 7).

We examined the information on Mexico's closed-cycle, captive breeding operations in Annex 3 of the 2010 CITES proposal. According to the information provided in the Annex, there were 19 closed-cycle captive-breeding operations registered as UMAs for the Morelet's crocodile in Mexico. Only four of the 19 UMAs had a captive population sufficient to support commercial trade, and only two of these four could support international commercial trade—both of which were registered with CITES. As of 2008, the captive population in these four UMAs ranged from 1,237 to 28,673 individuals. The two UMAs that were not registered with CITES had the potential to produce 1,100 skins per year for local commercial trade (CITES 2010a, Annex 3, p. 24). The population levels for the remaining 15 UMAs were relatively low by comparison, ranging from six to 576 individuals. Rather than supporting commercial trade, four of the remaining 15 UMAs supported exhibition, seven had no commercial production, three contributed to the economic support of the local community, and one was used for research.

Three of these 19 Mexican captive-breeding operations were also registered with CITES, and could therefore commercially trade Morelet's crocodile products internationally, as well as domestically while the species was listed under Appendix I. However, one of these CITES-registered captive breeding operations contains only six individuals, and is used for exhibition purposes. Only two of the three CITES-registered captive breeding operations commercially produce enough Morelet's crocodile skins with the annual production potential for international trade. These two captive breeding operations have the potential to produce an estimated 2,500 skins annually for international trade (CITES 2010a, pp. 7 and 24, Annex 3). Please see the discussion in the Factor D section, Inadequacy of Existing Regulatory Mechanisms, for additional information on the three CITES-registered captive breeding operations.

There are no captive-breeding facilities in Belize or Guatemala that are providing specimens or skins for trade, either domestically or internationally under the CITES captive-breeding exception (CITES 2010c). In Belize, Morelet's crocodiles are officially protected from commercial harvest. Platt and Thorbjarnarson (2000b) found no evidence of commercial poaching of Morelet's crocodiles for skins or meat in Belize (Platt and Thorbjarnarson 2000b, p. 27). Reportedly, the species is not subject to commercial activities in Guatemala given that Guatemala's Comisión Nacional de Áreas Protegidas (CONAP; National Commission on Protected Areas, also known as the Guatemalan National Park Service) prohibits the export and trade in wild specimens of endangered species (CITES 2010a, p. 7).

*Illegal Trade*

According to the 2010 CITES proposal to transfer the Morelet's crocodile to Appendix II, the UNEP–WCMC CITES Trade Database showed few illegal movements of parts and derivatives of the Morelet's crocodile between 1975 and 2007 from Mexico, Guatemala, and Belize, with the United States as the only destination. This suggests that there is a very low level of illegal trade and that it is only with the United States; however, enforcement actions are not a required field for CITES Annual Reports. Unlike the United States, most countries do not specify the

action taken on imports. Thus, the fact that illegal trade to the United States is documented in the WCMC database does not mean that this is the only illegal trade in the species. That said, between 1982 and 2005, items found to have been "illegally" imported to the United States from Mexico were mainly leather products (308) and shoes (419 pairs). It is quite possible that these U.S. imports derived from legal operations in Mexico, but were precluded from import into the U.S. because of the Morelet's crocodile's endangered status under the Endangered Species Act.

Considering the same caveats pertaining to WCMC data, there were eight records illegal trade occurring from Guatemala (between 1989 and 1997), mainly involving pairs of shoes (27), and one case in Belize, which involved the export of 31 eggs in 1995. Regarding Guatemala, Castañeda-Moya (1998) stated that illegal capture of the species continued in the Petén region in that year. However, he admitted that the volume of such activity had decreased compared to the situation 25 years before (CITES 2010a, p. 8).

Recent data available on illegal trade in the Morelet's crocodile between 1975 and 2007 showed that the United States reported illegal imports (UNEP–WCMC CITES Trade Database 2010a). The data on illegal imports are based on the numbers of items that were seized and confiscated by law enforcement personnel in both the United States and in other countries. This information is not included in CITES annual reports for each country; the United States is the exception. The majority of the illegal Morelet's crocodile parts and derivatives confiscated upon arrival into the United States between 1975 and 2007 came from Mexico (20 skins, 28 handbags, 243 leather items, 419 pairs of shoes, 3 watch straps, 9 bodies, 10 garments, 2 live animals, and 65 small leather products). Again, these items could have come from legal operations in Mexico, but were a violation at the time under the Act due to the Morelet's crocodile's endangered status. A significantly smaller number of illegal items originated from Guatemala (1 skin, 2 handbags, 1 leather item, 27 pairs of shoes, and 1 body) and Belize (31 eggs). The majority of the illegal trade reportedly began in 1985, but began to decline steadily starting in 2000. Between 2005 and 2007, there were only several reported illegal imports of Morelet's crocodile into the United States, and these were small leather products from Mexico (UNEP–WCMC CITES Trade Database 2010b).

The Government of Mexico's Federal Prosecutor for Environmental Protection (PROFEPA) has investigated illegal trade in live animals, presumably for the pet trade. A potential illegal market in live animals is under analysis, and would be expected to involve the Mexican cities of Guadalajara, Monterrey, and Mexico City (Mexico 2006, p. 41). Illegal harvest or killing of individuals perceived as threats to humans or livestock cannot be completely precluded, but enforcement of controls on domestic and international trade severely limit any commercial incentives. PROFEPA performs inspections to prevent laundering of wild Morelet's crocodile specimens and other illegal activities. There was a declining trend in seizures of illegal specimens and products during 1998–2007. According to Mexico (Mexico 2006, pp. 39–42), 85 specimens were confiscated in 2003, two in 2004, 80 in 2005, and 14 in 2006 (partial results). In addition and according to Paola Mosig, Program officer for the TRAFFIC World Wildlife Fund in Mexico, 20 seizures with a total of 48 live specimens, as well as 25 belts and two wallets were confiscated in 2007 (Mosig 2008, pers. comm.) According to TRAFFIC, the Wildlife Trade Monitoring Network, these seizures are indicative of a strong enforcement program that deters illegal trade (Mosig 2008, pers. comm.).

*Current Trade*

In accordance with Article II, paragraph 2(a) of CITES, and CITES Resolution Conf. 9.24 (Rev CoP14) Annex 1, the Government of Mexico submitted a proposal (CoP15 Prop.8) to the CoP15 to transfer the Morelet's crocodile throughout its range to Appendix II of CITES with an annotation requiring a zero quota for wild specimens that was further amended by adding the phrase, "for commercial purposes" (CITES 2010a, p. 1). The Government of Guatemala opposed Mexico's CITES proposal as it pertains to the species in Guatemala, based on the limited knowledge of the population and population trends in Guatemala; the threats to the species from deforestation and pollution in Guatemala; and the possibilities of illegal, cross-border trade taking place from Guatemala to Mexico. As a result, the parties to CITES agreed that Morelet's crocodiles in Mexico and Belize should be transferred to CITES Appendix II but that Morelet's crocodiles in Guatemala remain in CITES Appendix I. (CITES 2010b, p. 2). The change in CITES status for Morelet's crocodiles in Mexico and Belize became effective on June 23, 2010. Because of the zero quota annotation, transferring the Morelet's crocodile to CITES Appendix II precludes the trade of wild specimens for commercial purposes and therefore should not create additional pressure on wild populations in any of the range states, as long as enforcement remains effective. As such, international commercial trade in Morelet's crocodiles under CITES is currently limited to individuals from captive-breeding operations only. However, once the Appendix-II status went into effect for Morelet's crocodiles in Mexico and Belize, international trade of Morelet's crocodiles in Mexico and Belize under CITES was no longer limited to facilities that are registered with the CITES Secretariat pursuant to the resolution on registration of operations that breed Appendix-I animal species for commercial purposes (Resolution Conf. 12.10 (Rev. CoP15)).

According to the Government of Mexico's 2010 CITES proposal, the current level of international trade in the Morelet's crocodile is around 8,600 individuals in 10 years (an average of 860 individuals per year). The Morelet's crocodile represents only a small fraction of the global trade in crocodilians, far behind the market leaders: brown spectacled caiman (*Caiman crocodilus fuscus*), American alligator (*Alligator mississippiensis*), and Nile crocodile (*Crocodilus niloticus*). Current trends in international trade do not indicate a threat to the Morelet's crocodile in the wild (CITES 2010a, p. 8). In addition, the Government of Mexico's proposal to move the Morelet's crocodile to CITES Appendix II allows only individuals from sources other than wild populations to be exported and this provision remains in effect with the zero quota for wild specimens traded for commercial purposes. The risk of laundering of wild specimens through farms is very low, because the quality of skins produced in captivity is much higher than wild-caught skins, and demand in international trade focuses on high quality skins (CITES 2010a, pp. 8, 23). It should be noted that there are a number of CITES-recognized production methods that are not "wild" and not "bred in captivity." Mexico or any other country is free to propose a change to the annotation at the next CoP removing this limitation. However, there is no indication at this time that a change is imminent.

To see if our results would be comparable to Mexico's assessment, we queried the UNEP–WCMC CITES Trade Database for the number of Morelet's crocodile skins legally exported between 1998 and 2008 and found

similar results for the current level of legal trade cited above by the Government of Mexico. According to the UNEP–WCMC CITES Trade Database, Mexico exported 8,780 skins between 1998 and 2008, an average of 878 skins per year (UNEP–WCMC CITES Trade Database 2010b). Two of the previously CITES-registered captive breeding operations in Mexico have the potential to produce 2,500 skins per year for international trade (CITES 2010a, Annex 3, p. 24), which is more than adequate to meet the current demand for legal trade of less than 900 skins per year. If this proposed rule is finalized, then Morelet's crocodile products would be able to be imported into the United States and the demand for international trade may increase. However, we do not believe this potential increase in international trade is likely to threaten or endanger wild Morelet's crocodiles due to the adequate supply of captive-bred individuals in Mexico available for legal international commercial trade under CITES.

Besides CITES and the Act, no other international measures control the cross-border movement of the Morelet's crocodile (CITES 2010a, p. 10). If this proposed rule is finalized and the prohibitions of the Act are removed, then Morelet's crocodile parts and products could be imported into the United States for commercial purposes, provided they do not originate in Guatemala. However, cross-border movement of the Morelet's crocodile throughout its range would still be regulated through CITES (Appendix II for Mexico and Belize; Appendix I in Guatemala).

**Subsistence Harvest**

The overharvest for commercial purposes, rather than subsistence harvest, was the primary reason for the Morelet's crocodile listing under the Act and under CITES. Although subsistence harvest has historically had an impact on some local populations of Morelet's crocodiles, these impacts have diminished over time and do not currently have a significant impact on the species as a whole.

Indigenous cultures in Mexico, Belize, and Guatemala have a long history of using the Morelet's crocodile for subsistence and cultural purposes (Maimone Celorio *et al.* 2006, pp. 40–43; Zamudio 2006, pp. 5–8; Méndez-Cabrera and Montiel 2007, p. 132). Historically, the Maya Indians in Mexico consumed small quantities of the eggs and meat of the Morelet's crocodile (Maimone Celorio *et al.* 2006, pp. 40–43; Zamudio 2006, pp. 5–8; Méndez-Cabrera and Montiel 2007, p. 132). Hunting and harvest techniques were based on traditional knowledge by these people of the behavior and ecology of the Morelet's crocodile (Cedeño-Vázquez and Zamudio Acedo 2005, pp. 8–9). More recently (1965–1980), and in response to a demand by outside buyers/businessmen, Maya hunters harvested large quantities of hides for commercial purposes, but that activity now has largely been discontinued (Zamudio *et al.* 2004, p. 344).

Indigenous and nonindigenous people in Belize, generally poor farmers, also engaged in large-scale, commercial harvest of hides during the previous century, but that practice was primarily based on economic instead of cultural reasons (Hope and Abercrombie 1986, p. 146). Abercrombie *et al.* (1982, p. 19) made a distinction between master hunters in Belize, generally older men who made extensive forays into the forest in search of specific game species, and part-time hunters, generally younger men who made short-term, opportunistic outings and often harvested Morelet's crocodiles. Among other uses, the Morelet's crocodile also has important roles in indigenous art, medicine, and religion (Stocker *and Armsey,* 1980, p. 740; Cupul-Magaña 2003, pp. 45–48), and is used locally for handicrafts, jewelry, decorations, and curios (BERDS 2005a, p. 1).

Meerman *et al.* (2003a, p. 49) noted a relative scarcity of fish and fish predators such as crocodiles in the Sarstoon Temash National Park in Belize. They suspected that fish populations are depressed, and that over-fishing by humans must play a role. People engaged in fishing along the Upper Temash River also annually collect Morelet's crocodile eggs from nests located along water channels for human consumption. In some years, one or more nests escape discovery so the eggs are not collected. As a result, baby crocodiles are subsequently seen that year. Heavy fishing also reduces the potential prey base for the Morelet's crocodile. The heavy predation on eggs together with the depletion of the Morelet's crocodile's prey base may be responsible for the low crocodile count along the river (Meerman *et al.* 2003a, pp. 42, 45).

Castañeda Moya (1998a, p. 521; 1998b, p. 13) listed illegal hunting as a threat to Morelet's crocodile in the Petén region of Guatemala, but did not provide a numerical estimate of the take. ARCAS, an animal welfare group in Guatemala, reported the rescue or recovery of 49 live individuals (about 8 per year), most likely from pet dealers or private individuals, during the period 2002–2007 (ARCAS 2002, p. 3; 2003, p. 2; 2004, p. 2; 2005, p. 2; 2006, p. 3; 2007, p. 3). We do not have any information describing the effect of these threats on the status of wild populations in Guatemala.

Although subsistence harvest continues to affect negatively some local populations of the Morelet's crocodile, the impacts appear to be very small. We have no evidence that subsistence harvest is currently or anticipated to affect significantly the Morelet's crocodile throughout its range. The current range-wide distribution of the Morelet's crocodile closely mirrors the historical range-wide distribution, with a total population size of approximately 19,400 adults in the three range countries.

**Scientific Research**

Scientific research in and of itself also constitutes a use of the Morelet's crocodile. Research in the three range countries has mainly focused on field surveys for the occurrence of the species, relative to abundance and habitat quality, which do not require removal of specimens. Research protocols followed so far have been those accepted worldwide and do not involve significant alteration of habitat or behavior (CITES 2010a, p. 7). Several scientific research projects on the Morelet's crocodile have focused on field surveys that involve capture, handling, or invasive techniques to identify, for example, the species, sex, or size class of the specimen, as well as to collect biological specimens or to attach an identification tag. If conducted according to standard protocols, these physical activities pose little risk of injury or disturbance to the subject crocodiles. Several studies have also entailed, for example, night surveys using bright spotlights (Castañeda Moya *et al.* 2000, p. 62), stomach flushing (Platt *et al.* 2006, p. 282), collection of small blood samples (Dever *et al.* 2002, p. 1079), or the gathering of nonviable eggs from nests for contaminants analyses (Rainwater *et al.* 2002a, p. 320). None of these studies has cited any negative effects due to handling or observation on the Morelet's crocodile populations.

All three range countries regulate scientific research and collection. According to the UNEP–WCMC CITES Trade Database, 3,124 specimens were exported for scientific purposes from Mexico to the United States. From an administrative standpoint, a permit at the state or Federal level regulates the collection of biological samples for scientific purposes in Mexico. In Mexico, the Mexican Endangered

Species List (NOM–126–SEMARNAT–2000) regulates the collection of biological samples from wild species for scientific use. In addition, the Governments of Belize and Guatemala regulate scientific collection and research. In Belize, this type of export is subject to strict protocols and provisions of the Wildlife Protection Act (CITES 2010a, p. 7).

With the Appendix-II designation for Morelet's crocodiles in Mexico and Belize, individuals or institutions wishing to import scientific samples originating from those countries will no longer be required to obtain a CITES import permit. However, the CITES import permit requirement would still be in effect for Guatemala and CITES export permits or re-export certificates, regardless of the country of origin, would be required. The elimination of import permits, while continuing the CITES requirement for export permits and re-export certificates, may result in additional scientific collecting and research to benefit the species while ensuring that adequate protections for the species remain in place (see the Factor D section, Inadequacy of Existing Regulatory Mechanisms, below).

In conclusion, we are not aware of any evidence that utilization of the Morelet's crocodile for scientific research purposes poses anything more than a low risk to the subject individuals; furthermore, risks at the population level are probably negligible. To the contrary, these studies (surveys and sampling) provide useful information essential to monitoring the status and continued health of individuals as well as populations. These studies also allow ecotourists in these countries to work with the scientific community in the collection of Morelet's crocodile data (Volunteers for International Partnership 2009, pp. 1–4.) This provides ecotourists with an opportunity to observe the Morelet's crocodile in its native habitat and to gain firsthand knowledge about the conservation threats that the species is facing.

*Ranching*

Although the Belize-Guatemala-Mexico Tri-national Strategy for the Conservation and Sustainable Use of Morelet's Crocodile (see the Post-Delisting Monitoring section, below) includes long-term plans for ranching, none of the range countries have given any indication they plan to ranch Morelet's crocodiles within the foreseeable future.

*Summary of Factor B*

Thus, while uncontrolled commercial harvests nearly extirpated the Morelet's crocodile, the species has largely recovered because of being protected under CITES and the Act in the early 1970s, as well as the implementation of CITES trade controls by all three range countries. All of the range countries currently continue to prohibit harvest of wild Morelet's crocodiles.

Illegal international and domestic trade still occurs, but levels remain low. Any incidence of illegal killing that may have occurred has not prevented the observed population increase of the species. The potential remains for illegal cross-border trade, as well as the laundering of wild specimens through existing captive-breeding operations in Mexico, but enforcement in Mexico is relatively strict. Given the increased effectiveness of law enforcement personnel with regard to the implementation of CITES, the increased supply of captive-bred Morelet's crocodiles in Mexico that are now available for commercial trade as a result of the Morelet's crocodile's transfer to CITES Appendix II, and the increasing awareness of these regulations by the public, we anticipate that illegal trade in wild Morelet's crocodiles will decrease in the majority of the species' range in the foreseeable future.

The Government of Mexico's Federal Prosecutor for Environmental Protection (PROFEPA) performs inspections to prevent laundering of wild Morelet's crocodile specimens and other illegal activities. In Belize, the importation and exportation of wildlife requires a permit and is subject to strict protocols and provisions of the Wildlife Protection Act, Hunting of Scheduled species for scientific or educational purposes in Belize also requires a permit. There was a declining trend in seizures of illegal specimens and products from 1998–2007. According to TRAFFIC, these seizures are indicative of a strong enforcement program that deters illegal trade (Mosig 2008, pers. comm.).

Other uses such as scientific research are either benign or involve relatively small numbers of Morelet's crocodiles. In addition and given the steps that the Government of Mexico is taking internally to promote the sustainable commercial use of Morelet's crocodiles, we anticipate that commercial uses will increase in the foreseeable future, especially in Mexico, but that captive-bred specimens will be used instead of wild individuals.

In conclusion, we find that the overutilization for commercial, recreational, scientific, or educational purposes is not a significant factor affecting the Morelet's crocodile throughout its range, both now and for the foreseeable future.

*Factor C. Disease or Predation*

Inter-specific interactions, namely disease and predation, can have significant impacts on the conservation status of a species. At the time the petition was submitted, disease was not considered a significant conservation threat to the Morelet's crocodile. However, the West Nile Virus (WNV) has been detected in several Mexican populations of the Morelet's crocodile. According to Farfán-Ale *et al.* (2006, pp. 910–911), six specimens tested negative to the WNV at the Mérida Zoo, Yucatan State, Mexico, during 2003–2004, while six of seven specimens tested positive to the WNV at Ciudad del Carmen, Campeche State, Mexico, in 2004. All crocodiles, including those not sampled, showed no signs of illness at the time of the testing or during the 3 months that followed (Farfán-Ale *et al.* (2006, p. 911).

In a separate survey conducted during May–October 2005, Hidalgo-Martínez *et al.* (2008, p. 80) detected the WNV in six of seven Morelet's crocodiles at Zoológico La Venta, Villahermosa, Tabasco State, Mexico. All animals were healthy at the time of serum collection, and none had a history of WNV-like illness. The presence of WNV antibodies in animals from those zoos demonstrated the presence of WNV in those regions and indicated a potential risk of infection in animals. The magnitude of that potential risk, however, has not been determined. West Nile Virus was responsible for a significant number of deaths of farmed American alligators in the U.S. State of Georgia during separate outbreaks in 2001 and 2002 (Farfán-Ale *et al.* 2006, p. 908). However, we do not have any information to indicate that WNV causes illness in the Morelet's crocodile. The sample sizes in the above studies on Morelet's crocodile were small, so much larger studies are needed. However, the best available information does not suggest that WNV is a threat or likely to become a threat.

Predation on Morelet's crocodile eggs and juveniles is a common natural phenomenon, posing no risk to healthy populations. They are preyed upon more frequently at the juvenile stage by many birds and medium-sized mammals (CITES 2010a, p. 4). Larger juveniles and subadults are less susceptible than small juveniles are to predation, and only large carnivores such as jaguars (*Panthera onca*)

(Navarro Serment 2004, p. 57) pose a risk to adult crocodiles. Larger Morelet's crocodiles may prey upon the juveniles of their species. However, this tends to act as an early factor promoting population regulation and adult spacing. Aggressive interactions among adults seem to be reduced by this mechanism, especially in populations with too many adults. In populations with a steady state of age distribution, cannibalism usually remains at a minimum (CONABIO 2005, p. 29). We are unaware of any unnatural rates of predation affecting any age class of Morelet's crocodile, and we have no indication that predation will exacerbate other threats to the species in the future.

Other interspecific interactions can also affect the conservation status of a species. The Morelet's crocodile and the American crocodile co-occur and may compete with each other for resources along the freshwater-saltwater interface in coastal Mexico and Belize. Platt and Thorbjarnarson (2000a, p. 16; 2000b, pp. 24–26) reported relatively higher frequency of encounter rates for the Morelet's crocodile at alluvial and nonalluvial lagoons, mangrove forest, and rivers and creeks, collectively characterized as inland sites, while the American crocodile was relatively more abundant in offshore cays and the Turneffe Atoll. These differences were attributed to the smaller body size of the Morelet's crocodile, as well as past exploitation patterns by hunters and subsequent niche expansion by this species (Platt and Thorbjarnarson 2000b, p. 26). There was no indication, however, that interspecific competition between the Morelet's and the American crocodiles was a serious conservation problem.

Parasites have been also reported for the Morelet's crocodile, but have not been identified as a conservation threat. In Mexico, trematodes (parasitic flatworms commonly called flukes) and nematodes (unsegmented worms commonly called roundworms) have been reported (Moravec and Vargas-Vázquez 1998, p. 499; Moravec 2001, p. 47) from the Yucatan Peninsula, but health problems with the crocodile hosts were not noted. Rainwater *et al.* (2001a, p. 836) reported ticks (*Amblyomma dissimile* and *Amblyomma* sp.), but noted that parasitism by ticks on the Morelet's crocodile was rare in Belize and elsewhere.

Padilla Paz (2008, p. vi) characterized hematology, body index, and external injuries for 103 Morelet's crocodiles from the northern wetlands of Campeche State, Mexico. These variables were used to characterize the health of the animals. Captive Morelet's crocodiles evaluated for that study presented significantly more injuries than did wild individuals. Parasitism with nematodes (*Paratrichosoma recurvum*) was greater in wild crocodiles than in captive individuals. No serious health issues were identified in individuals in either group (Padilla Paz 2008, pp. 67–68).

Individual Morelet's crocodiles can also have physical issues that can affect their well-being. Rainwater *et al.* (2001b, pp. 125–127) reported two individuals among 642 Morelet's crocodiles captured in Belize with a missing forelimb. Known in the technical literature as ectromelia, this condition was probably the result of congenital defects and not due to an injury. Both individuals otherwise appeared to be in good condition.

*Summary of Factor C*

While the full impact of the WNV on the Morelet's crocodile has yet to be determined, there is no indication at present that WNV poses a threat to the species, and other interspecific interactions do not appear to be adversely affecting the Morelet's crocodile. In conclusion, we find that disease or predation is not a significant factor affecting the Morelet's crocodile throughout its range, both now and for the foreseeable future.

*Factor D. Inadequacy of Existing Regulatory Mechanisms*

Convention on International Trade in Endangered Species of Wild Fauna and Flora

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, the Convention, or Treaty) is an international agreement between member governments to ensure that the international trade in plants and wildlife does not threaten the species' survival. It provides varying degrees of protection to more than 30,000 species of animals and plants, whether they are traded as live specimens, parts or products. Countries that have agreed to be bound by the Convention (that have "joined" CITES) are known as Parties. Although CITES is legally binding on the Parties, it does not take the place of national laws. Rather, it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level. For many years, CITES has been among the international conservation agreements with the largest membership, with now 175 Parties (*http://www.CITES.org*).

CITES works by subjecting international trade in specimens of selected species to certain controls. Trade includes any movement into or out of a country and is not limited to commercial movement. All import, export, re-export, and "introduction from the sea" of species covered by the Convention have to be authorized through a permitting system. The species covered by CITES are listed in three Appendices, according to the degree of protection they need (CITES 2009c).

Appendix I include species threatened with extinction that are or may be affected by trade. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. Appendix III includes species that have been unilaterally listed by a Party to assist in the implementation of the listing Party's national legislation to conserve and monitor trade in the listed species. The Conference of the Parties (CoP), which is the decision-making body of the Convention and comprises all its member countries, has agreed on a set of biological and trade criteria to help determine whether a species should be included in Appendices I or II (Since Appendix-III listings are a unilateral decision, Parties do not need to abide by the same biological and trade criteria adopted by the Parties.). At each regular meeting of the CoP, Parties submit proposals based on those criteria to amend these two Appendices to add, remove, or reclassify species (such as the Government of Mexico's 2010 proposal to transfer the Morelet's crocodile from Appendix I to Appendix II). Parties discuss these amendment proposals during the CoP, and then they are submitted for adoption by the Parties (*http://www.cites.org*).

A specimen of a CITES-listed species may be imported into or exported (or re-exported) from a Party only if the appropriate permit or certificate has been obtained prior to the international trade and presented for clearance at the port of entry or exit.

*Regulation of Trade in Appendix-I Specimens*

Both an export permit or re-export certificate must be issued by the country of export and an import permit from the country of import must be obtained prior to international trade for Appendix-I species. An export permit

may only be issued if the country of export determines that the export will not be detrimental to the survival of the species, the specimen was legally obtained according to the animal and plant protection laws in the country of export, live animals or plants are prepared and shipped for export to minimize any risk of injury, damage to health, or cruel treatment, and an import permit has been granted by the importing country. Likewise, the requirements for a re-export certificate are that the country of re-export determines that the specimen was imported into their country in accordance with CITES, that live animals or plants are prepared and shipped for re-export to minimize any risk of injury, damage to health, or cruel treatment, and an import permit has been granted.

Issuance of import permits for Appendix-I species will also need a determination from the country of import that the import will not be for purposes that are detrimental to the survival of the species, the proposed recipient of live animals or plants is suitably equipped to house and care for them, and the purpose of the import is not for primarily commercial purposes. Thus, with few exceptions, Appendix-I species cannot be traded for commercial purposes.

*Regulation of Trade in Appendix-II Specimens*

In contrast to the trade requirements for an Appendix-I species, CITES does not require an import permit from the destination country as a condition for the export and re-export of an Appendix-II species, unless it is required by the destination country's national law. However, an export permit or re-export certificate is required from the exporting country prior to the international trade taking place. An export permit may only be issued for Appendix-II species if the country of export determines that: (1) The export will not be detrimental to the survival of the species; (2) the specimen was legally obtained according to the animal and plant protection laws in the country of export; and (3) live animals or plants are prepared and shipped for export to minimize any risk of injury, damage to health, or cruel treatment.

A re-export certificate may only be issued for Appendix-II species if the country of re-export determines that: (1) The specimen was imported into their country in accordance with CITES and (2) live animals or plants are prepared and shipped for re-export to minimize any risk of injury, damage to health, or cruel treatment.

Parties to CITES are required to monitor both the export permits granted and the actual exports for Appendix II species. If a Party determines that the export of an Appendix-II species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which the species might become eligible for inclusion as an Appendix-I species, then that Party must take suitable measures to limit the number of export permits granted for that species (CITES article IV, paragraph 3).

*CITES Registered Captive-Breeding Operations*

Prior to the Morelet's crocodile in Mexico and Belize being downlisted to Appendix II, it could be treated as an Appendix II species and internationally traded commercially *only* if the specimen originated from a captive-breeding operation registered with the CITES Secretariat in accordance with CITES Resolution Conf. 12.10 (Rev. CoP15) "Guidelines for a procedure to register and monitor operations that breed Appendix-I animal species for commercial purposes." These captive-breeding operations may only be registered if specimens produced by that operation qualify as 'bred in captivity' according to the provisions of Resolution Conf. 10.16 (Rev.). To qualify as bred in captivity, specimens must be born in a controlled environment where the parents mated. In addition, breeding stock must be established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild. Breeding stock must also be maintained without the introduction of specimens from the wild, except for the occasional addition of animals, eggs or gametes meeting certain requirements. The breeding stock must have produced offspring of second generation (F2) in a controlled environment or be able to demonstrate that it is capable of reliably producing second-generation offspring in a controlled environment. Resolution Conf. 12.10 (Rev. CoP15) defines the term "bred in captivity for commercial purposes" as "any specimen of an animal bred to obtain economic benefit, including profit, whether in cash or kind where the purpose is directed toward sale, exchange, or provision of a service or any other form of economic use or benefit". Countries operating CITES-registered operations must ensure that the operation "will make a continuing meaningful contribution according to the conservation needs of the species" (CITES 2007b, pp. 1–2). Under the exception in the Treaty and Resolution Conf. 12.10 (Rev. CoP15), specimens of Appendix-I species originating from CITES-registered captive-breeding operations can be traded for commercial purposes, and shipments only need to be accompanied by an export permit issued by the exporting country. The importer is not required to obtain an import permit because these specimens are treated as CITES Appendix II. Countries that are Parties to CITES should restrict their imports of Appendix-I captive-bred specimens to those coming only from CITES-registered operations. Additional information on CITES-registered operations can be found on the CITES Web site at *http://www.cites.org/eng/resources/registers.shtml.*

Prior to the downlisting of the species in Mexico and Belize, three CITES-registered operations for Morelet's crocodiles were located in Mexico. These facilities, while no longer registered with the CITES Secretariat, are still in operation (CITES 2010a, p. 24, Annex 3). The names of these operations are:

(1) Cocodrilos Mexicanos (established in 1989; (former) registration number A–MX–501) in Culiacan, Sinaloa State. In 2008, this operation contained 28,673 captive Morelet's crocodiles for commercial production (CITES 2010a, p. 24, Annex 3).

(2) Industrias Moreletii (established in 1993; (former) registration number A–MX–502) in Villahermosa, Tabasco State. In 2008, this operation contained 1,237 captive Morelet's crocodiles for commercial production (CITES 2010a, p. 24, Annex 3).

(3) Cocodrilos de Chiapas (established in 1989; (former) registration number A–MX–503) in Tapachula, Chiapas State. In 2008, this operation contained six captive Morelet's crocodiles for exhibition purposes (CITES 2010a, p. 24, Annex 3).

When the CITES Appendix-II designation became effective on June 23, 2010, for Morelet's crocodiles in Mexico and Belize, commercial international trade in captive Morelet's crocodiles was no longer limited to crocodiles originating from the three operations that were registered with the CITES Secretariat. However, with the annotated listing, no export of wild-caught specimens for commercial purposes is allowed. Thus, any commercial export will continue to come from sources other than wild populations. There are currently 19 closed-cycle captive-breeding operations registered with the Government of Mexico as UMAs for the

production of Morelet's crocodile in Mexico. Under Mexican law, UMAs registered with the Government of Mexico must be closed-cycle and prove that they can produce individuals beyond the F2 generation (UMAs are described more fully below). Only four of the 19 UMAs have a captive population sufficiently large to support commercial trade, and only two of these four UMAs currently support international commercial trade—(Cocodrilos Mexicanos and Industrias Moreletii) (CITES 2010a, Annex 3, p. 24). Importing Morelet's crocodiles from Mexican captive-breeding operations no longer requires a CITES import permit because a CITES import permit is not required for Appendix II species. However, a CITES export permit or re-export certificate is still required. Although the two remaining UMAs capable of supporting trade (Cacahuatal in Veracruz State and Punta del Este in Campeche State) currently do not contain enough Morelet's crocodiles to support international commercial trade, they do have enough potential annual production to produce enough skins to support local commercial trade (CITES 2010a, Annex 3, p. 24).

Since the Morelet's crocodile in Guatemala is listed as an Appendix-I species under CITES, the only way that Morelet's crocodiles and their parts and products from Guatemala could legally be traded commercially in international trade is if a captive-breeding operation were to be registered with the CITES Secretariat. However, since Guatemala does not currently have any captive breeding operations that are registered with the CITES Secretariat, the commercial international trade in Morelet's crocodile products from Guatemala remains restricted.

However, under the current listing of the species under the Act, it remains illegal to import Morelet's crocodiles or their parts or products into the United States, regardless of the source, unless the purpose of the import is for scientific research or enhancement of propagation or survival of the species. If this proposed rule is finalized and the prohibitions of the Act are removed, Morelet's crocodile parts and products originating from sources other than wild populations from Mexico and Belize could be imported into the United States for commercial purposes, as long as the required CITES export permit or re-export certificate has been granted. As discussed earlier, however, an export permit will not be granted unless the exporting country finds that the export will not be detrimental to the species and the specimen was lawfully acquired.

*Mexico's Proposal To Transfer the Morelet's Crocodile to CITES Appendix II*

At the 2008 CITES Animals Committee meeting, the Government of Mexico submitted for comment and review a draft proposal to transfer Mexico's population of Morelet's crocodile from Appendix I to Appendix II based on Mexico's belief that the Morelet's crocodile no longer met the criteria for inclusion in Appendix I (CITES 2008a, pp. 1–28; CITES 2008a, p. 32). Committee members were generally favorable of the proposal, but had several technical questions and suggestions. The Government of Mexico subsequently revised their 2008 proposal and formally submitted a 2010 CITES proposal for consideration at CoP15, held in March 2010 in Doha, Qatar (Government of Mexico 2010). The 2010 proposal was to transfer the Morelet's crocodile throughout its range to Appendix II (CoP15 Prop. 8). The CITES Secretariat reviewed the proposal and agreed that the Morelet's crocodile no longer met the biological criteria for an Appendix-I species and recommended that the proposal be adopted.

The Government of Mexico's 2010 CITES proposal recommended transferring the Morelet's crocodile from Appendix I to Appendix II because the species no longer met the criteria for inclusion in Appendix I. Under the 2010 proposal, the transfer to Appendix II applied to all three range countries. The 2010 proposal included an annotation establishing a zero quota for wild specimens. The zero quota would prohibit any international trade in wild specimens within the context of CITES, thereby limiting the trade to Morelet's crocodile and its products to those originating from sources other than wild specimens. Although the Belize-Guatemala-Mexico Tri-national Strategy for the Conservation and Sustainable Use of Morelet's Crocodile (see the Post-Delisting Monitoring section, below) includes long-term plans for ranching, none of the range countries have indicated they plan to ranch Morelet's crocodiles within the foreseeable future.

The Government of Mexico consulted with the Governments of Belize and Guatemala on their 2010 CITES proposal. The Government of Belize supported the proposal, but did not provide documents to the CITES Secretariat to indicate their official support. According to the Government of Mexico's 2010 CITES proposal, the Government of Guatemala supported the proposal in part, but recommended transferring only the Mexican population of Morelet's crocodile in captive-breeding operations to Appendix II, with a zero quota for wild specimens traded for commercial purposes. In a letter from Guatemala's Consejo Nacional de Areas Protegidas to the Ambassador of Mexico dated 5 June 2009 (CITES 2010a, Annex 4, p. 25), the Government of Guatemala indicated that it did not support the Government of Mexico's 2010 CITES proposal as written. They recommended verifying that moving captive Morelet's crocodiles in Mexico to Appendix II would not put wild Morelet's crocodiles in Mexico at risk. They supported Mexico's transfer of captive-bred populations of Morelet's crocodiles from Appendix I to Appendix II provided the parties ensure the following:

- They verify that wild populations of Morelet's crocodiles in Mexico will not be at risk as they are moved from Appendix I to II;
- If Mexico's proposal at CoP15 is approved, then measures should be put in place for strict monitoring and enforcement on the Mexico-Guatemala border;
- That the marking of live animals be done by methods that cannot be falsified and that skins be tagged in accordance with CITES to maintain chain of custody;
- That the tagging methods for Mexican populations of Morelet's crocodile be widely circulated to range countries and those countries importing parts and products as well as live specimens.

Under Guatemala's recommended scenario, Morelet's crocodiles in Mexico, and Belize would be in Appendix II, with a zero quota for wild specimens traded for commercial purposes and all Morelet's crocodiles in Guatemala would remain on Appendix I (CITES 2010a, pp. 12, 25–26). The Appendix-II designation became effective on June 23, 2010. As a result, Morelet's crocodiles and their products from Mexico and Belize from sources other than wild populations are now allowed to enter international trade for commercial purposes under CITES. They are, however, not currently able to enter the United States market because the Act's prohibitions remain in effect. The international commercial trade in all *wild* Morelet's crocodiles remains restricted.

At this time, the Government of Mexico intends to export products derived from Morelet's crocodiles raised in its captive-breeding operations that are registered with the Government of Mexico as UMAs, and that have a proven track record of producing

offspring beyond the F2 generation (CITES 2008, p. 23; CITES 2010a, p. 9).

Now that the Morelet's crocodile in Mexico and Belize is transferred to CITES Appendix II with an annotation providing a zero quota for wild specimens traded for commercial purposes, if this proposed delisting rule under the Act is finalized, then products originating from any captive-breeding operations in Mexico (and Belize, if any) could be imported into the United States. In addition, if this proposed delisting rule under the Act is finalized, then Morelet's crocodile products manufactured in other countries could also be re-exported into the United States if those skins originated in Mexico or Belize and were not derived from wild populations. Live Morelet's crocodiles and parts or products originating from Guatemala will remain in CITES Appendix I, with its associated trade restrictions remaining in place.

Through Resolution Conf. 8.4 (Rev. CoP15) the Parties to CITES have adopted a process, the National Legislation Project, to evaluate whether Parties have adequate domestic legislation to successfully implement the Treaty. In reviewing a country's national legislation, the Secretariat considers whether a Party's domestic laws designate the responsible Scientific and Management authorities, prohibit trade in violation of the Convention, have penalty provisions in place for illegal trade, and provide for seizure of specimens that were illegally traded or possessed.

While both Guatemala and Mexico's legislation have been determined to be sufficient to properly implement the Treaty, Belize's national legislation was considered lacking. As part of the National Legislative Project, Belize has submitted a plan to revise their legislation to the Secretariat in March 2010, but as of this proposed rule, have not officially enacted any revised legislation (CITES 2010e). Although a trade suspension was put in place for Belize for one orchid species, *Myrmecophila tibicinis,* the suspension was in relation to the *Review of Significant Trade in Specimens of Appendix II species* (CITES 2010d) and not due to Belize's current legislation implementing CITES. If this proposed rule is finalized, CITES will continue to protect the Morelet's crocodile throughout its range by regulating international trade. However, as part of this proposed rule, we are requesting any information on Belize's efforts to enact national legislation and/or their efforts to ensure their compliance with CITES. We will continue to monitor Belize's progress between the proposed and final rules.

All three countries also have protected-species and protected-areas legislation under the jurisdiction of specific ministries or departments. The three range countries have an extensive regulatory framework to control activities with respect to the Morelet's crocodile and its habitat. Mexico is unique among the three range countries in that the Government of Mexico also has legislation regulating captive-breeding operations.

Mexico

The Government of Mexico has a strict and comprehensive legal framework to regulate the conservation and sustainable use of the Morelet's crocodile in Mexico:

(1) *Ley General de Equilibrio Ecológico y Protección al Ambiente (LGEEPA; General Ecological Equilibrium and Environmental Protection Law)*—This is the primary Mexican law for environmental matters and is the principal legal instrument that regulates the Morelet's crocodile in Mexico (CONABIO 2005, Annex 3, p. 1). Passed in 1988, this law applies to and integrates the three levels of government within the context of natural resources: Federal, state, and municipal. With regard to trade in wildlife species, including the Morelet's crocodile, the LGEEPA contains the basis to regulate all activities, including importation, exportation, seizures, sustainable use, violations, fines, animal welfare, and legal possession. While forty-five articles within the Mexican LGEEPA deal with environmental contamination (CONABIO 2005, Annex 3, p. 1), we are not aware of any specific provisions and their relevance to Morelet's crocodile.

(2) *Ley General de Vida Silvestre (LGVS: General Wildlife Law)*—Passed in 2000, this law regulates the use, conservation, and management of domestic wild fauna and flora and their habitat (CONABIO 2005, Annex 3, pp. 1–2). This law is based on the principle of sustainable use. Any activity with regard to wild fauna and flora must comply with certain requirements: The activity must be supported by an approved management plan; the quantity to be harvested must be less than natural recruitment (replacement); and the harvest must not have negative impacts on the wild populations, their habitat, or biological activities. With regard to the Morelet's crocodile, harvest of wild populations is not permitted, and harvest under this law would only be permitted for specimens obtained through closed-cycle, captive-breeding operations which have programs that contribute to the development of wild populations (CITES 2010a, p. 9).

According to the LGVS, alien specimens or populations are those occurring outside their natural range (such as the Morelet's crocodiles found on the Pacific coast of Mexico), including hybrids. Such specimens or populations can only be managed in captivity, and with prior approval. A management plan must be in place with established security and contingency measures to avoid any negative effects on the conservation of wild native specimens and populations or their habitat. LGVS establishes management, control, and remediation measures for individuals or populations considered harmful. Measures may consist of capture/collection for the development of recovery, restocking and reintroduction projects; for research or environmental education activities; for relocation of specimens (subject to prior evaluation of the destination habitat and condition of the individuals); for elimination or eradication of individuals/populations; or of actions or devices to keep the individuals away, disperse them, make access difficult or reduce the damage they cause (CITES 2010a, p. 9).

(3) *Programa de Conservación de la Vida Silvestre y Diversificación Productiva en el Sector Rural (Program for Wildlife Conservation and Productive Diversification of the Rural Sector)*—Launched in 2000, this program defines the conceptual, strategic, legal and administrative framework that governs any initiative for the conservation and use of wild species (CITES 2010a, p. 8). The goal of this program is to establish incentives for private and public initiatives that favor natural resources conservation, as well as provide economic opportunities for private entities for the sustainable use of these resources (CONABIO 2005, Annex 3, pp. 2–3). Based on a biological evaluation of the species, this program promotes the use and conservation of priority species of plants and animals, including the establishment of wildlife production units and technical advisory committees such as the COMACROM (Subcomité Técnico Consultivo para la Conservación, Manejo y Aprovechamiento Sustentable de los Crocodylia en México; Technical Advisory Subcommittee for the Conservation, Management and Sustainable Use of the Crocodilians in Mexico) in the case of the Morelet's crocodile. Created by the Government of Mexico in 1999, COMACROM includes scientists, technicians, NGOs, producers, authorities and other

stakeholders. It participates in meetings of the IUCN Crocodile Specialist Group (CSG) and contributes publications to the CSG (CITES 2010a, p. 8).

(4) *Norma Oficial Mexicana NOM–059–SEMARNAT–2001*—Passed in 2001, this regulation provides legal protection to domestic endangered species of fauna and flora and provides a mechanism to evaluate extinction risks (CONABIO 2005, Annex 3, p. 3). The Método de Evaluación de Riesgo de Extinción de Especies Silvestres de México (MER; Method to Evaluate Wildlife Extinction Risks in Mexico), one of the parts of this regulation, has four categories of risk: Probably extinct in the wild, in peril, threatened, and subject to special protection. The Morelet's crocodile is included in the category "subject to special protection." This regulation defines the category "subject to special protection" as "those species or populations that might find themselves threatened by factors that adversely affect their viability, thus determining the need to promote conservation or recovery and the recovery and conservation of associated species populations. (This category may include lower risk categories of the IUCN classification)."

Although the Government of Mexico no longer classifies the Morelet's crocodile as "Endangered" or "Threatened," classification as "subject to special protection" under Mexican Official Law NOM–059–SEMARNAT–2001 allows legal protection at the national level (CITES 2010a, p. 9). Including the Morelet's crocodile in this category allows the Government of Mexico to make sure it still meets the conservation needs of important species from both a biologically and socio-economic standpoint before the species can be considered as threatened or endangered. The petitioners recommended keeping the Morelet's crocodile in this category of "subject to special protection" to maintain existing measures of conservation, technical supervision, monitoring and enforcement in order to avoid the species' having a higher risk category in the future (CONABIO 2005, p. 4 and Annex 2, p. 5).

(5) *Norma Oficial Mexicana NOM–126–SEMARNAT–2000*—Passed in 2000, this regulation oversees scientific research and collection by individual domestic and foreign researchers, as well as by institutions (CONABIO 2005, Annex 3, p. 3). If a species is also regulated under CITES, the appropriate permit or certificate must be obtained under this regulation. Scientific research or collections involving the Morelet's crocodile are regulated under these provisions.

(6) *Sistema de Unidades de Manejo para la Conservación de la Vida Silvestre (SUMA; Wildlife Conservation Management and Administration Unit System)*—In 1997, the Government of Mexico established a system for registering, supervising, and enforcing UMAs (Unidad de Manejo y Administración; Conservation Management and Administrative Units) for intensive reproduction of economically valuable natural resources, including captive farming of Morelet's crocodiles (CONABIO 2005, Annex 3, pp. 3–5). The goal of this regulation was to ensure that biodiversity conservation be considered within the context of the production and socioeconomic needs of the country. This system combined a broad range of entities or facilities ("units") under a single administrative program, including zoological and botanical gardens, greenhouses, and animal breeding centers. Through these units, the Government of Mexico promotes natural resources uses that are responsible and planned. Extensive and intensive captive-breeding units for the Morelet's crocodile are covered under this system. In exchange for the right to harvest the Morelet's crocodile under controlled conditions, closed-cycle captive-breeding unit operators are required to develop and implement an approved management plan for the site, as well as to conserve the species' habitat and other species that use that habitat. Strict animal husbandry practices and welfare considerations are required under these plans.

Legal registration of approved UMAs requires proof of captive production beyond the F2 generation (CITES 2010a, p. 9). For intensive UMAs, such as captive-breeding operations in Mexico, the Government of Mexico requires the UMAs to submit regular reports that must include information on births and deaths, number and identification of traded specimens, and management activities (CITES 2010a, p. 10).

The Government of Mexico uses three methods to mark live Morelet's crocodiles registered with the Wildlife Division through the corresponding inventories of UMAs. The first method is interdigital staples on the feet. The second method is the traditional method of cutting notches in the tail scales and is only used by some operations (CITES 2010a, p. 10). These marks are registered with the Government of Mexico. The third method is the Universal Tagging System required by CITES for the export of skins (Resolution Conf. 11.12 (Rev. CoP15), which consists of a plastic security tag with the UMA registration number, the species code, a serial number, and the year of production or harvest. Any application for a CITES export permit must include the number of the authorized specimen based on the interdigital tag and the skin's plastic security tag and is used to track skins and other products (CITES 2010a, p. 10).

Approximately 50 UMAs have been registered for rearing Morelet's crocodiles in Mexico since the 1980s, primarily for domestic commerce. Nineteen of them are still actively managing the species and three were registered with the CITES Secretariat when the species in Mexico was included in Appendix I (CITES 2010a, p. 11). Only five of the nineteen UMAs have the potential for annual commercial production of products made from Morelet's crocodile (CITES 2010a, p. 24).

(7) *Sistema Nacional de Áreas Naturales Protegidas (SINANP; National System of Protected Natural Areas)*—Passed in 2000, this system is made up of parcels identified as Protected Natural Areas (CONABIO 2005, Annex 3, p. 5). These Protected Natural Areas are created by Presidential decree and the activities on them are regulated under the *LGEEPA,* which requires that the Protected Natural Areas receive special protection for conservation, restoration and development activities. The National Commission of Natural Protected Areas (CONANP), a decentralized organ of the Government of Mexico's Ministry of Environment and Natural Resources (SEMARNAT), currently administers 173 federal natural areas representing more than 62,396,392 ac (25,250,963 ha). These natural areas are categorized as: Biosphere Reserves, National Parks, Natural Monuments, Areas of Natural Resource Protection, Areas of Protection of Flora and Fauna, and Sanctuaries.

These areas are protected under Mexican law because they contain key or representative ecosystems or species, or ecosystems or species that are at risk and require strict control. Many ecosystems or species, including the Morelet's crocodile, are protected under this system. According to the Government of Mexico, SINANP includes at least 12 protected areas occupied by Morelet's crocodile, covering an estimated 13 percent of the species' geographic range (CONABIO 2005, p. 30).

(8) *Código Penal Federal (Federal Penal Code)*—The code contains a special section for environmental crimes (CONABIO 2005, Annex 3, pp. 5–6). These penalties apply to those who commit crimes against plants or

animals, as well as to individuals who illegally use or commercialize regulated species without authorization. These penalties apply to crimes involving the Morelet's crocodiles.

In order to implement and enforce the laws and regulations mentioned above, SEMARNAT created the office of the Procuraduría Federal de Protección al Ambiente (PROFEPA; Federal Prosecutor for Environmental Protection) and the Programa para la Inspección y Vigilancia en Puertos, Aeropuertos y Fronteras (Ports, Airports, and Borders Inspection and Enforcement Program) (CONABIO 2005, Annex 3, p. 6). Under this program, imports and exports for key products regulated by SEMARNAT are inspected at 65 points of entry and exit to prevent laundering. Morelet's crocodile products are regulated under this program. PROFEPA implements the Environmental Inspection Program at ports, airports, and borders, and the Wildlife Inspection Program, monitoring all stages of the use of wild species and ensuring their protection. Inspection and enforcement programs make these Mexican laws and regulations more effective, especially at airports and border ports of entry and exit. Specific actions include the verification of cross-border movements in compliance with CITES and other international agreements in coordination with customs authorities; inspection of areas of wildlife harvest, stockpiling, distribution, and sale; surveillance of areas of wildlife distribution and harvest; and special operations in areas of wildlife harvest, stockpiling, distribution and sale, in coordination with public law enforcement and judicial authorities (Govt. of Mexico 2010, p. 11). Mexico has implemented several programs to prevent and combat illegal harvest, including the System of Wildlife Management Units (SUMA) which is based on six key elements: (1) Registration with the Wildlife Division (DGVS Dirección General de Vida Silvestre- SEMARNAT, CITES Management Authority); (2) proper habitat management; (3) monitoring of wild populations of the species harvested; (4) controlled harvest (including periodic reports and inventories on each UMA); (5) management plan approved and registered with the Wildlife Division; and (6) certificate of production and market/tagging methods. SEMARNAT conducts random inspections of UMAs and, if any issues are detected in the management plan, carries out population studies, including sampling activities and species inventories and produces periodic reports on these findings (CITES 2010a, p. 10).

We do not have any information on whether the Mexican legal framework specifically authorizes subsistence hunting or cultural use of the Morelet's crocodile, or on the current level of enforcement, or whether the enforcement is considered adequate.

Belize

The Government of Belize also has a legal framework that regulates the conservation and sustainable use of the Morelet's crocodile, along with other species of birds, mammals, and reptiles (collectively known as Scheduled species). In general terms, the Wildlife Protection Act prohibits illegal harvest and export in Belize (Government of Belize 2000 p. 7–9). The Forestry Department, within the Ministry of Natural Resources and the Environment, is the relevant government agency with respect to the Morelet's crocodile. Under this legislation, the Game Warden controls hunting of these species. Certain activities are prohibited and a license is required. For example, hunting of the Morelet's crocodile is prohibited. Importation and exportation of wildlife is subject to strict protocols and provisions of the Wildlife Protection Act and requires a permit. Hunting of certain species for scientific or educational purposes also requires a permit. The legislation also identifies offenses and penalties.

In addition to the Wildlife Protection Act, the Government of Belize is in the process of developing and implementing a National List of Critical Species (Meerman 2005a, pp. 1–8; Meerman 2005b, p. 38). This list is based, in part, on the procedures used by IUCN Red List of Threatened Animals (see IUCN 2001, version 3.1, 35 pp.). Within the context of the Belize Protected Areas Policy and System Plan, this list will serve as a basis for the Belize Red Data List. According to the 2005 list (Meerman 2005a, p. 8), the Morelet's crocodile is categorized as "CD" (Conservation Dependant) in Belize due to the following factors: small range, hunted, economic importance, charismatic species drawing national and international attention, and persecuted as perceived pest. Under the 2005 list, Conservation Dependent species are taxa that are the focus of a continuing taxon-specific or habitat-specific conservation program for the taxon in question, the cessation of which would result in the taxon qualifying for one of the threatened categories on the list within five years (Meerman 2005a, p. 3).

These laws and regulations provide legal protection to the Morelet's crocodile in Belize. We have no information on whether the Wildlife Protection Act is sufficiently enforced. The CITES Legislation Project (CITES 2010e) concluded that Belize's national legislation does not meet any of the requirements for implementing CITES. However, Belize has submitted a plan and draft legislation to CITES as of March 2010, but has not officially enacted the legislation. In spite of this assessment by CITES, trade data seem to indicate the threat of unregulated trade from Belize is minimal. However, as part of this rule, we are requesting from the public any information pertaining to Belize's efforts to fully enact legislation and ensure their compliance with CITES.

Guatemala

The Government of Guatemala also has a legal framework that regulates the conservation and sustainable use of natural resources, including the Morelet's crocodile (IIA URL FCAA IARNA 2003, pp. 67–69; IARNA URL IIA 2006, pp. 104–107; República de Guatemala 2007, pp. 3–4 and 31). In general terms, and based on our review of other materials, natural resources management is under the jurisdiction of the Ministerio de Ambiente y Recursos Naturales (Ministry of the Environment and Natural Resources; USAID 2002, pp. 44–45; República de Guatemala 2007, pp. 3–4 and 9). The main legislation in this regard is Decreto Número 4–89 (*Ley de Áreas Protegidas,* Gobierno de Guatemala 1989, pp. 1–24; Birner *et al.* 2005, p. 290; *Law of Protected Areas and Amendments/Revisions*). This decree established the Comisión Nacional de Áreas Protegidas (CONAP; National Commission on Protected Areas). CONAP has been tasked to run the Sistema Nacional de Áreas Protegidas (SIGAP; National System of Protected Areas; IARNA URL IIA 2006, pp. 104–107). In Guatemala, the Morelet's crocodile is included in the Endangered Species List (Resolution No. ALC/032–99 of CONAP) in Category 2, "Seriously Endangered," which includes species that are endangered because of habitat loss, trade, the very small size of their populations and/or endemism with limited distribution (CITES 2010a, p. 9).

In the past, threats to the Morelet's crocodile and its habitat in Guatemala, compounded with the lack of funding and personnel, made it difficult for the Government of Guatemala to adequately enforce these laws and regulations. Ongoing conservation actions were often overwhelmed by slow economic

development, high levels of poverty, unequal land distribution, a highly segmented society, and the effects of more than three decades of civil war (Birner *et al.* 2005, pp. 285, 292). In 2003, Laguna del Tigre National Park was considered by ParkWatch as critically threatened due to land grabs, the presence of human settlements, expanding agriculture and cattle ranching, poaching, forest fires, the oil industry, and an almost complete lack of institutional control over the area (ParksWatch 2003, pp. 1, 11). However, in 2004 ParksWatch stated that the staff at Laguna del Tigre had doubled in size since their 2003 report (ParksWatch 2004, p, 30.) Seventy-three park rangers, 10 archeological site guards and 96 Army personnel were hired to staff the park and since the increase in staffing, both the park and the biotope are "constantly patrolled." In addition, the Wildlife Conservation Society and U.S. AID continued its "Biodiversity Conservation at a Landscape Scale" program and has provided a comprehensive plan with specific goals to preserve and protect wildlife in the MBR in Guatemala through conserving wildlife species and their habitat, while maintaining the economic productivity of renewable natural resources. They are fulfilling these goals by establishing specific parameters. Namely, "to develop adaptive and participatory strategy to reduce threats to wildlife in the MBR; to develop, implement and monitor sustainable mechanisms to reduce threats to wildlife and ecosystems across the MBR landscape; to learn and teach best management practices for the conservation of the MBR and beyond; and to guide, design and test wildlife-focused planning" (WCS 2008, page 3). For the past nine years the WCS has been conducting overflights of Laguna del Tigre Park with the Guatemalan National Park Service and LightHawk (a volunteer-based environmental aviation organization) and has used that information to identify illegal colonization, resulting in successfully removing illegal squatters (80+ families) from the area. In addition, overflights revealed marijuana clearings on the eastern-most port of Mirador-Río Azule National Park in 2007. WCS overflights helped to monitor fires, locate illegal settlements and notify the national and provincial government as well as the national media of illegal activities. As a result, the presence of fires in Laguna del Tigre National Park has been reduced by 90%. In addition, WCS has taken an active role in educating locals and concessionaires on best management practices for sustainable use of forest products. (WCS 10 year report, no date given, page 6).

In August 2010, the president of Guatemala announced that he is deploying 250 soldiers to recover fully all the protected zones of El Petén in the Laguna del Tigre section of the MBR. This "Green Battalion" is being deployed specifically to protect the Laguna del Tigre National Park and work jointly with the National Civil Police and the Attorney General's Office to combat drug trafficking and the illegal harvest of natural resources and archaeological sites of that region of the MBR (Latin American Herald Tribune, December 6, 2010).

The Government of Guatemala is also participating in the Tri-national Strategy (see the Post-Delisting Monitoring section below) for Morelet's crocodile, wherein specific actions directed toward the Morelet's crocodile are defined. Conservation actions in Guatemala are being developed and implemented within the context of the Convention on Biological Diversity and the National Biodiversity Strategy and Action Plan (Birner *et al.* 2005, p. 285). Many outstanding accomplishments have been achieved in Guatemala in terms of biodiversity conservation (IARNA URL IIA 2006, p. 22) and the Guatemalan government seems committed to ensuring that environmental management and enforcement efforts continue.

*Summary of Factor D*

Based on all three range countries being Parties to CITES, as well as having protected-species and protected-areas legislation, and implementing this legislation, and enforcing relevant laws, the current regulatory mechanisms appear to be adequate to conserve the Morelet's crocodile in the majority of the species' range. As per the CITES National Legislation Project (CITES 2010e), both Guatemala and Mexico's legislation meet all the requirements for implementing CITES. Belize's national legislation was considered not to meet any of the requirements for implementing CITES. However, Belize has submitted a plan and draft legislation to CITES as of March 2010, but has not officially enacted the legislation. Per decisions made during CoP15, the CITES protections for Morelet's crocodiles in Guatemala will remain unchanged. They will remain protected as an Appendix-I species, with those CITES trade restrictions remaining in place.

Together, Mexico and Belize contain the majority of wild individuals (87 percent) and the estimated potentially suitable habitat (81 percent) throughout the species' range. We anticipate that these conditions will remain essentially the same, both domestically and internationally in the sense of more-effective regulatory mechanisms, in the foreseeable future (*e.g.,* CITES). However, we did not solely rely on these future measures in finding the species is no longer threatened or endangered.

Existing regulatory mechanisms, including CITES and domestic prohibitions on harvest of wild Morelet's crocodiles, have played a vital role in resurgence of Morelet's crocodiles over the last 40 years. While some trade restrictions could be lifted in the future, particularly to allow increased trade in captive-bred specimens now that Morelet's crocodiles in Mexico and Belize have been moved to CITES Appendix II with a zero export quota for wild specimens traded for commercial purposes, we believe such lifting of restrictions would pose little risk to the species. All three range countries restrict the use of wild specimens and the Government of Mexico has institutions with proven track records to administer and enforce controls on captive-breeding operations and laundering of illegal specimens. Should the zero export quota for wild specimens traded for commercial purposes be lifted, it may create greater enforcement challenges in all three range countries in the foreseeable future because the taking of wild Morelet's crocodiles could be authorized. If it does, the requirements of CITES Appendix II will apply. The exporting country will be required to determine that the export is not detrimental to the survival of the species in the wild and specimens are legally acquired prior to issuing a permit authorizing the export. However, a change to the annotation would require approval of two-thirds of the Parties voting at a CoP and cannot be done unilaterally by any of the range countries. Therefore, we do not have any indication that CITES and the regulatory mechanisms of the range countries will be inadequate to continue to protect the species in the wild if this proposed delisting rule under the Act is finalized, or if ranching is authorized in the future.

The reproduction and survival rates of wild Morelet's crocodiles are currently robust. Populations remain stable throughout most of their range, and have expanded their range in some areas. In conclusion, we find that, taken together, the currently existing protections described above are adequate, and they will remain adequate to protect the Morelet's crocodile and its

habitat in the majority of its range now and within the foreseeable future.

*Factor E. Other Natural or Manmade Factors Affecting the Continued Existence of the Species*

Human-Crocodile Conflicts

The Morelet's crocodile is known to attack humans. While data about these conflicts are limited, anecdotal reports suggest that these conflicts are widespread and ongoing. In a well-documented attack in Belize in August 2001, a Morelet's crocodile attacked a 13-year-old male and caused him to drown in the Belama area of Belize City (Finger *et al.* 2002, p. 198).

More often, human-crocodile conflicts involving the Morelet's crocodile are more benign. In Mexico, for example, the Crocodile Museum (Chiapas State; about 80 cases per year) assists local officials through the capture, rescue, and relocation of local crocodilians (all three species, including the Morelet's crocodile) that are considered potentially dangerous or, because of their location (close proximity to human activities), they might be killed by local inhabitants (Domínguez-Laso 2008, p. 5). Abercrombie *et al.* (1982, p. 19) reported that the Morelet's crocodile was generally feared in Belize. Finger *et al.* (2002, p. 199) indicated that development related to human occupation (such as residential areas and infrastructure) in Morelet's crocodile habitat around Belize City was generating increasing numbers of human-crocodile conflicts. Windsor *et al.* (2002, p. 418) also noted that the practice of feeding the Morelet's crocodile by residents and tourists was becoming more common and was also generating increasing numbers of human-crocodile conflicts in Belize. According to Platt and Thorbjarnarson (2000a, p. 27), large Morelet's crocodiles, despite legal protections, are still perceived as threats to humans and livestock, and are occasionally killed near residential areas in Belize. While educational programs are needed for local residents and visitors to deter this activity, it may also be necessary to develop a problem crocodile removal program to resolve these conflicts (Windsor *et al.* 2002, p. 418). No information was available about human-crocodile conflicts in Guatemala. Although human-crocodile conflicts are affecting local populations of Morelet's crocodiles, and this is likely to continue in the foreseeable future, we do not have any evidence that it is currently or anticipated to be a threat to the species as a whole.

Environmental Contaminants

Environmental contaminants are known to have negative impacts on terrestrial vertebrates (Smith *et al.* 2007, p. 41), including crocodilians (Ross 1998, p. 3). The primary routes through which terrestrial reptiles, including the Morelet's crocodile, are exposed to environmental pollutants are ingestion of contaminated prey, dermal contact, maternal transfer, and accumulation of chemicals into eggs from contaminated nesting media (Smith *et al.* 2007, p. 48). With regard to the Morelet's crocodile, organochlorine contaminants have been detected in the scutes (external scales) (DeBusk 2001, pp. viii–ix) and the chorioallantoic membrane (CAM) of hatched Morelet's crocodile eggs (Pepper *et al.* 2004, pp. 493 and 495), as well as in whole contents analysis of nonviable crocodile eggs (Wu *et al.* 2000a, p. 6,416; 2000b, p. 671; Wu *et al.* 2006, 151).

The most common organochlorine found in studies of Morelet's crocodile in Belize was DDE (dichlorodiphenyldichloroethylene), detected in 100 percent of eggs collected by Wu *et al.* (2000b, p. 673) and 69 percent of CAMs sampled by Pepper *et al.* (2004, p. 495). Organochlorines have also been detected at additional sites throughout coastal Belize and the interior highlands (Meerman 2006a, p. 26; Wu *et al.* 2006, p. 153). Although exposure to organochlorines has been linked to adverse effects on population health of the American alligator in Florida (several studies cited by Wu et al. 2000b, p. 676), no population-level effects were detected in Belize (McMurry and Anderson 2000, pp. 1 and 4; Wu *et al.* 2000b, p. 676). Rainwater (2003, pp. xii and 38), however, later suggested that some of the sites that had been chosen for comparative purposes in fact had similar contaminant profiles and that some study results suggesting no significant differences between sites may be equivocal.

Vitellogenin induction (development of the egg yolk) in the Morelet's crocodile, suggesting endocrine disruption due to environmental contamination when exhibited by males, recently has become a research topic in Belize. Reproductive impairment due to endocrine-disrupting contaminants has been demonstrated elsewhere in crocodilians and is suspected to occur in Belize due to known contaminant levels (Selcer *et al.* 2006, p. 50; Rainwater *et al.* 2008, p. 101). Initial results have not documented contaminant-induced vitellogenin in blood plasma in the Morelet's crocodile, but this condition may occur in the wild in Belize; studies are ongoing (Selcer *et al.* 2006, p. 50; Rainwater *et al.* 2008, pp. 101 and 106–107).

Mercury was detected in nonviable Morelet's crocodile eggs collected from eight nests across three localities in northern Belize in 1995 (Rainwater *et al.* 2002a, p. 320; Rainwater *et al.* 2002b, p. 190). While mercury was detected in all eggs sampled, the mean concentration per egg was among the lowest reported values for any crocodile species. No overt signs of mercury toxicity or evidence of a population decline was noted for Morelet's crocodiles at the site (Rainwater *et al.* 2002a, pp. 321–322).

All samples for studies of organochlorine and mercury contaminants cited above came from Belize, and we are not aware of any similar investigations elsewhere in the Morelet's crocodile range (Mexico or Guatemala). Since reproduction and survival rates of Morelet's crocodiles are currently robust, we do not have any reason to believe that environmental contaminants are currently likely to cause the Morelet's crocodile to become in danger of extinction within the foreseeable future.

Populations currently remain stable throughout most of the species range, and have even expanded their range in some areas. This provides empirical evidence of the species' intrinsic resilience and adaptability. There is no evidence that environmental contaminants currently pose a threat to the species. Although environmental contaminants may represent a potential threat, especially given the potential for long-term bioaccumulation of contaminants during the species' long reproductive life, given this species' resiliency we do not have any data to indicate that it is likely to become a threat in the foreseeable future.

Manmade factors that could affect the continued existence of the Morelet's crocodile, according to CONABIO (CONABIO 2005, p. 32), were the construction and operation of oil extraction infrastructure and thermoelectric plants. The operation of chemical and manufacturing industries could also become a threat if potentially toxic residual materials are disposed of improperly. These activities, however, are highly regulated by the Ley General de Equilibrio Ecológico y Protección al Ambiente (LGEEPA); General Ecological Equilibrium and Environmental Protection Law) and the Attorney General for the Protection of the Environment (PROFEPA). Under LGEEPA, every new project has to fulfill strict protocols for the assessment of

environmental impacts before it can be approved.

As discussed above in the Factor D., Inadequacy of Existing Regulatory Mechanisms, section, the Government of Guatemala opposed the Government of Mexico's 2010 CITES proposal based, in part, on threats to the species from pollution in Guatemala (CITES 2010a, p. 6). However, we do not have any information or data on the extent of the impact, if any, that pollution may have on the Morelet's crocodile in Guatemala.

Genetic Diversity and Integrity

At least three factors have been identified as potential threats with respect to the Morelet's crocodile: (1) Genetic heterogeneity; (2) hybridization; and (3) male-biased sex ratios.

*Genetic Heterogeneity*

Evaluation of nine microsatellite loci, highly repetitive DNA sequences, from Morelet's crocodiles in Belize suggested a high degree of genetic heterogeneity within local populations, relatively high levels of migration among populations, and no evidence of a major genetic bottleneck due to population depletion in the mid-1900s (Dever and Densmore 2001, pp. 543–544; Dever *et al.* 2002, p. 1084). Population bottlenecks are a period when a species population drops to such a low level that many genetic lineages become extinct and genetic variation is reduced to a few individuals, resulting in genetic homogeneity. If severe, it can lead to inbreeding. Endangered species that do not become extinct might expand their populations, but with limited genetic diversity, they may not be able to adapt to changing environmental conditions. The high degree of genetic heterogeneity found in Morelet's crocodiles was attributed to frequent migration by individuals among the several adjacent Morelet's crocodile populations. Ray *et al.* (2004, pp. 455–457) found low levels of genetic diversity in the mitochondrial control region of Morelet's crocodiles at 10 sites in northern Belize and at one site each in northern Guatemala and Mexico, but these results were inconsistent with a population bottleneck and may be typical of crocodilian populations. Other studies of the repetitive sequences in the mitochondrial control are ongoing in the Morelet's crocodile and may be a useful tool for researchers investigating population dynamics of this species (Ray and Densmore 2003, p. 1012).

*Hybridization*

Data suggest that some hybridization between Morelet's crocodiles and American crocodiles has always periodically occurred in the wild in areas where both species are sympatric, and that the hybridization is more frequent than previously believed (Cedeño-Vázquez *et al.,* 2008, p. 666–667; Rodríguez *et al.,* 2008, p. 678). While the first hybrids were identified in coastal areas of eastern Belize, later studies also located hybrids in Mexico along the eastern and northern coasts of the Yucatan Peninsula (Ray *et al.* 2004, p. 449; Cedeño-Vázquez *et al.* 2008, p. 661; Rodríguez *et al.* 2008, p. 674).

Hybridization involves several key issues. First, hybridization appears to be bidirectional (males of one species with females of the other species, and vice versa). In addition, hybrids (confirmed by laboratory tests) do not always exhibit physical characteristics (such as body size, shape, or coloration) that are a mixture of both species, and they are not always readily identifiable as such in the hand. Furthermore, F2 hybrids and backcrosses of hybrids to nonhybrids have been reported. These circumstances hinder the field identification of potential hybrids.

Ray *et al.* (2004, p. 459) stated that further assessment of genetic contact between these two species should precede reclassification of Morelet's under CITES, presumably because of uncertainty regarding numbers of genetically pure individuals in Belize. While populations of both the Morelet's crocodile and the American crocodile suffered from the hunting pressures of the 1950s and 1960s, the American crocodile has been slower to recover. Indeed, Ray *et al.* (2004, p. 459) noted that hybridization likely represents a greater danger to the genetic integrity of the larger but rarer American crocodile than to the Morelet's crocodile in Belize. The Service believes this concern bears additional investigation, but is not sufficient to warrant continued endangered or threatened status under the Act for the Morelet's crocodile.

One hypothetical concern about hybridization is that supplementation of wild Morelet's crocodile populations in Mexico with captive-bred crocodiles might affect the genetic integrity of wild populations. While analyses of captive-bred populations have not been published, differences in the nature and extent of genetic variation of these populations compared with wild populations might be expected. It is not clear if these differences, if they occur, would be significant or important from a conservation standpoint. Furthermore, this issue may be a moot point. Although agreements between captive-breeding operations and the Government of Mexico require breeders to make available up to 10 percent of their offspring for reintroduction to the wild, or as breeding stock for other crocodile farms in the country, no releases of captive-bred stock have occurred (Mexico 2006, p. 28). No releases have occurred because the current total population sizes of wild populations in Mexico, according to Mexican officials, are sufficiently large to render releases unnecessary (CITES 2008, p. 23). However, accidental escapes and deliberate releases of the Morelet's crocodile from captive rearing-units outside of the species' natural range have occurred in wetland habitats along the Pacific coast of Mexico. These wetland habitats are already occupied by the naturally occurring American crocodile, and interactions between the two crocodile species are likely (Ross 1995, p. 14). These escapes and releases of Morelet's crocodiles may pose risks to the genetic integrity of naturally occurring American crocodiles, but probably not to Morelet's crocodiles. The Government of Mexico is making efforts to diagnose potential threats to the native American crocodile caused by hybridization with the introduced Morelet's crocodile on the Pacific coast of Mexico. The goal of these efforts is to generate morphological and molecular identification materials and study the population dynamics of the American crocodile. It will include monitoring and harvest of Morelet's crocodiles and hybrids for scientific research (CITES 2010a, p. 6).

Although hybridization between American and Morelet's crocodiles continues to affect negatively some local populations of the Morelet's crocodile, the impacts appear to be very small. We have no evidence that hybridization is currently or anticipated to affect significantly the Morelet's crocodile throughout its range.

*Male-biased Sex Ratios*

Another potential risk from supplementation of wild populations with captive-bred Morelet's crocodiles is that of skewed sex ratios (greater proportion of males in captive populations). Incubation temperature affects the sex ratio of crocodilian species differently (Escobedo-Galván 2006, p. 131). Like many crocodilian species, the Morelet's crocodile exhibits temperature-dependent sex determination. Incubation temperatures greater than about 93 °F (34 °C) or less than 90 °F (32 °C) produce females, while temperatures between 90–93 °F (32–34 °C) generally produce males (Escobedo-Galván 2006, p. 133; Escobedo-Galván *et al.* 2008, p. 2). Some wild populations of the Morelet's

crocodile in Belize also have greater proportions of males than females (5.3 males per 1 female), but seem to be healthy (Platt and Thorbjarnarson 2000a, p. 23). We do not have any evidence that skewed sex ratios currently pose a threat to the species. Although skewed sex ratios may represent a potential threat, especially given the potential for skewed sex ratios as a result of climate change, this information is not sufficient to be able to judge the timing of this potential, *i.e.,* that it will manifest within the foreseeable future. Therefore, we do not have any information to indicate that it is likely to become a threat in the foreseeable future.

Natural Weather Events

Natural weather can affect the Morelet's crocodile. Hurricanes or heavy seasonal rains, for example, may pose risks to Morelet's crocodile eggs located in nests along water channels. Flooding associated with hurricanes or rains, however, may also provide conservation benefits to the Morelet's crocodile by facilitating movements of individuals across the landscape, thereby promoting gene flow (CITES 2010a, p. 6). Furthermore, extended dry periods can result in the temporary disappearance of ephemeral water bodies, with concomitant increases in Morelet's crocodile densities and intraspecific interactions at nearby sites that still have water. There is no evidence, however, that natural weather conditions have been a problem for the Morelet's crocodile, which has adapted to these weather conditions. Therefore, we have no reason to believe that natural weather events are currently likely to cause the Morelet's crocodile to become in danger of extinction within the foreseeable future throughout all or any significant portion of its range.

Climate Change

The Intergovernmental Panel on Climate Change (IPCC) concluded that warming of the climate system is unequivocal (IPCC 2007a, p. 30) and sea levels are expected to rise well into the foreseeable future (Bates *et al.* 2008, pp. 20 and 28–29). Numerous long-term changes have been observed including changes in arctic temperatures and ice, widespread changes in precipitation amounts, ocean salinity, wind patterns, and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2007b, p. 7). Based on scenarios that do not assume explicit climate policies to reduce greenhouse gas emissions, global average temperature is projected to rise by 2–11.5 °F by the end of this century (relative to the 1980–1999 time period) (USGCRP 2011, p. 9). Species that are dependent on specialized habitat types, limited in distribution, or occurring already at the extreme periphery of their range will be most susceptible to the impacts of climate change. While continued change is certain, the magnitude and rate of change is unknown in many cases.

The information currently available on the effects of climate change and the available climate change models do not make sufficiently accurate estimates of location and magnitude of effects at a scale small enough to apply to the range of the Morelet's crocodile. We do not have any information on the projected impacts to the Morelet's crocodile because of climate change, particularly the potential impacts of shifting global temperatures on sex ratios. The study by Escobedo-Galván *et al.* 2008 regarding climate change's projected impacts to the American crocodile illustrates the possible impacts to the Morelet's crocodile. This study, entitled "Potential effects of climate change on the sex ratio of crocodiles" (Escobedo-Galván *et al.* 2008), was presented at the February 2008 International Science Symposium: Climate Change and Diversity in the Americas. The study selected several areas in Florida and western Mexico that contain American crocodiles, and used the current environmental information for these areas to predict how increased temperatures would affect the potential geographical distribution and sex ratios of the species in Florida, the Caribbean, and Central America.

Based on a preliminary analysis (focusing on the geographic distribution and sex ratios of American crocodiles in the present, 2020, and 2050), Escobedo-Galván *et al.* (2008) postulated that the geographic distribution and sex ratios of American crocodile populations in different parts of the range would change in response to temperature and sea level parameters. Crocodiles are ectothermic, relying on external sources of heat to regulate their body temperature. They control their body temperature by basking in the sun, or moving to areas with warmer or cooler air or water temperatures. Optimal growth in crocodilians has been found to occur around 88 °F (31 °C), with appetites and effective digestion diminishing below 84 °F (29 °C) (Brien *et al.* 2007, p. 15). As the global temperatures increase, areas that are currently too cool to support American and Morelet's crocodiles may become warm enough to support them in the future. According to Escobedo-Galván *et al.* 2008, increased global temperatures and sea level would benefit the American crocodile by significantly increasing its potential habitat and distribution. Their study predicted that the current potential distribution for the American crocodile would expand 69 percent in 2020 and 207 percent in 2050. This is an 81 percent increase in potential distribution from 2020 to 2050 (Escobedo-Galván *et al.* 2008, presentation, pp. 9–10).

The study also predicted that increased global temperatures would have a significantly negative impact on the sex ratios of the American crocodile. Like many other crocodilian species, both the American and the Morelet's crocodile exhibit temperature-dependent sex determination. The macroclimate (global climate) affects the mesoclimate (the temperature outside of a crocodile's nest), which in turn affects the microclimate (the temperature inside of a crocodile's nest), which in turn determines the proportion of males to females produced in the nest (Escobedo-Galván *et al.* 2008, presentation p. 4). Incubation temperatures greater than about 93 °F (34 °C) or less than 90 °F (32 °C) produce females while temperatures between 90–93 °F (32–34 °C) generally produce males (Escobedo-Galván 2006, p. 133; Escobedo-Galván *et al.* 2008, p. 2). Thus, the production of males is entirely dependent upon a sustained incubation temperature range of only three degrees. Incubation temperatures greater than 97 °F (36 °C) are at the upper end of the tolerance range for reptile eggs and result in death of embryos and stress to the surviving hatchlings (Escobedo-Galván *et al.* 2008, presentation, p. 2).

According to Escobedo-Galván *et al.* 2008, the current sex ratio of the American crocodile favors females (based on potential species distribution): 75 percent of the potential species distribution has fewer males than females, 15 percent has an equal number of males and females, and 10 percent has more males than females. The study predicted that by 2020, the sex ratio is expected to shift in favor of males due to increases in nest temperature as a result of climate change: 24 percent of the potential species distribution will have fewer males than females, 16 percent will have an equal number of males and females, and 60 percent will have more males than females (Escobedo-Galván *et al.* 2008, presentation, pp. 11–12). Under this scenario, the number of females produced will be reduced significantly by 2020, which in turn will reduce the overall total eggs laid in each

breeding season. Of the eggs laid, more are likely to become males, which in turn would further reduce the number of breeding females produced over time. Escobedo-Galván *et al.* 2008 predicted that by 2050, American crocodiles would become extinct in Florida, the Caribbean, or Central America (Escobedo-Galván *et al.* 2008, presentation p. 13).

Although American crocodiles are found primarily in saline and brackish environments, they can also be found in abandoned coastal canals and borrow pits and may range inland into freshwater environments preferred by Morelet's crocodiles such as lakes and lower reaches of large rivers. American crocodiles are extremely adaptable in their nesting strategy, and while they mainly nest in holes, individuals will readily build mound nests if suitable materials are available. American and Morelet's crocodiles have been known to lay eggs within the same nest mound as conspecifics, suggesting a more gregarious and tolerant demeanor (Brien *et al.* 2007, pp. 17–18). Sea level rise would significantly expand the amount of inland saline and brackish coastal habitat available to the American crocodile, and correspondingly decrease the amount of inland freshwater habitat available to the Morelet's crocodile. The area of available land would also be reduced as a result of sea level rise, further increasing competition between the two species for terrestrial activities such as nesting and basking on the shoreline.

The study by Escobedo-Galván *et al.* 2008 did not provide any information or data on the effects of climate change on the Morelet's crocodile. Although the American crocodile and Morelet's crocodile have overlapping ranges, similar life-history requirements, and may lay eggs in the same nest, we do not have any evidence that climate change currently poses a threat to the Morelet's crocodile. Although climate change may represent a potential threat to the Morelet's crocodile, especially given the crocodilian requirement for temperature dependent sex determination, we do not have any data to indicate that it is likely to become a threat in the foreseeable future. We are seeking information and data on the effects of climate change on the Morelet's crocodile as part of this proposed rule.

Other Potential Concerns

Other information obtained by the Service, however, suggests that the construction and operation of dams to generate electricity could be a conservation threat to the Morelet's crocodile (for example, the Chalillo hydroelectric dam in Belize on the Macal River, an area inhabited by the Morelet's crocodile (Environment News Service 2004, p. 1; Hogan 2008, p. 2). At the national level, six main environmental issues affecting natural resources have been identified for Belize: (1) High deforestation rate; (2) solid and liquid waste management issues; (3) rising poverty rates; (4) rapid coastal development; (5) ineffective institution and legal frameworks; and (6) oil discovery (Young 2008, p. 18).

We do not have any information to indicate the extent of the impact, if any, that these environmental issues may have on the Morelet's crocodile in Belize. There is no evidence that these environmental issues in Belize currently pose a threat to the species. Although they may represent a potential threat, we do not have any data to indicate that it is likely to become a threat in the foreseeable future

There has been some information indicating that fishing nets (for fish and turtles) and death by drowning as threats to the Morelet's crocodile in Guatemala, but we do not have information regarding specific rates of injury or mortality (CITES 2008a, page). CONABIO (2005, p. 27) suggested that the number of crocodiles accidentally captured in nets in Guatemala was low, but the basis for this claim was unclear. Platt and Thorbjarnarson (2000b, p. 27) noted that "a limited number of crocodiles" drown in fish and turtle nets in northern Belize each year. There is no evidence that fishing currently poses a threat to the species. Although it may represent a potential threat, we do not have any data to indicate that it is likely to become a threat in the foreseeable future.

*Summary of Factor E*

Few, if any, natural or manmade factors are anticipated to affect the continued existence of the Morelet's crocodile. While natural factors such as hurricanes and extended dry seasons (CONABIO 2005, p. 32) may affect the species, we believe that the species has evolved with these kinds of events and they do not pose a threat to the species.

Several phenomena are categorized here as other natural or manmade factors that were considered as potentially affecting the conservation status of the Morelet's crocodile in the foreseeable future. Our knowledge about these factors is incomplete and uneven among the three range countries. Environmental contaminants, especially DDE and mercury, have been widely reported for Belize. To date, however, there is no evidence of negative effects to the Morelet's crocodile due to exposure to organochlorines even though these contaminants have been linked to documented adverse effects on population health in a similar species, the American alligator.

Vitellogenin induction in males, suggesting endocrine disruption due to environmental contamination, is predicted in Belize, but has not been documented. These factors do not appear to pose a conservation threat to the Morelet's crocodile in Belize at this time. Information about environmental contaminants in Mexico and Guatemala with regard to the Morelet's crocodile is limited. Potential environmental contaminant issues with respect to the Morelet's crocodile probably are the least well known in Mexico, but that country has an extensive legal framework to resolve any problems that may develop, especially if contaminants also become a public health issue. We do not have any information to indicate that environmental contaminants pose a danger to the species throughout its range. Although environmental contaminants may represent a potential threat, especially given the potential for bioaccumulation of contaminants during the species' long reproductive life, we do not have any data to indicate that it is likely to become a threat to the species in the foreseeable future.

Bycatch in fishing nets has been mentioned as a potential problem in Guatemala. In Belize, a "limited number of crocodiles" may die or be injured in nets (Platt and Thorbjarnarson 2000b, p. 27), while information about the potential negative effects of fishing nets on the Morelet's crocodile in Mexico is limited. Overall, these local impacts do not appear to have any significant impact on Morelet's crocodiles. Although it may represent a potential threat, we do not have any data to indicate that it is likely to become a threat in the foreseeable future.

Genetic diversity and integrity is a relatively complicated subject with respect to the Morelet's crocodile, and our knowledge across the three range countries is uneven. Studies in Belize suggest that wild populations in that country have a high degree of genetic diversity (Dever and Densmore 2001, pp. 543–544; Dever *et al.* 2002, p. 1084). Hybridization between the Morelet's crocodile and the American crocodile has been documented for eastern Belize and the eastern and northern coasts of the Yucatan Peninsula in Mexico (Ray *et al.* 2004, p. 440; Cedeño-Vázquez *et al.* 2008, p. 661; Rodriguez *et al.* 2008, p. 674). The nature and extent of genetic variation of captive-bred populations with respect to wild populations, as well as male-biased sex ratios, are also

poorly understood issues, but potentially important in Mexico where captive-bred individuals may eventually be released into the wild. There is no indication, however, that the Morelet's crocodile suffers from any genetic limitations throughout its range.

Natural weather events do not appear to have any population level impacts to the Morelet's crocodile, which has evolved to thrive in this climate. We do not have any evidence that climate change poses a threat to the species. Although climate change may represent a potential threat, especially given the crocodilian requirement for temperature dependent sex determination, we do not have any data to indicate that it is likely to become a threat in the foreseeable future.

Although some local factors continue to affect the Morelet's crocodile, we do not have any information to indicate that these factors are of sufficient magnitude to affect any population of the Morelet's crocodile. In conclusion, we find that other natural and manmade factors are not a significant factor affecting the Morelet's crocodile throughout its range, both now and for the foreseeable future.

**Conclusion of the 5-Factor Analysis**

We have carefully assessed the best scientific and commercial data available and have determined that the Morelet's crocodile is no longer endangered or threatened throughout all of its range. When considering the listing status of the species, the first step in the analysis is to determine whether the species is in danger of extinction or likely to become endangered throughout all of its range. For instance, if the threats on a species are acting only on a portion of its range, but the effects of the threats are such that they do not place the entire species in danger of extinction or likely to become endangered, we would not retain the entire species on the list.

In developing this proposed rule, we have carefully assessed the best scientific and commercial data available regarding the threats facing this species, as well as the ongoing conservation efforts by the three range countries. This information indicates that numbers of Morelet's crocodiles have significantly increased over the past four decades since being categorized as depleted by species experts in the 1970s. In Mexico and Belize, the species is broadly distributed geographically, essentially occupying the entire historical range, and age classes reflect healthy reproduction and recruitment into a wild breeding population of about 10,000–20,000 adults (Ross 2000, p. 3; CONABIO 2005, p. 19).

We have identified a number of potential threats to the Morelet's crocodile. Some of these potential threats may directly or indirectly affect individual Morelet's crocodiles, while others may affect Morelet's crocodile habitat. The contributions of these potential threats, identified in the Summary of Factors Affecting the Species sections above are discussed in approximate descending magnitude of impact in the foreseeable future:

(1) A continuation of wild harvest for ranching may pose a threat to the species if the countries decide to change course. However, if conducted in compliance with CITES, the ranching would have to be non-detrimental for the specimens to enter international trade. Our assessment of the risk associated with this potential threat is based primarily on the demonstrated adverse effects of past overharvest on populations. Additional monitoring programs and adequate regulatory mechanisms would need to be established prior to legalizing ranching. Such mechanisms would be important to prevent the laundering of illegally harvested Morelet's crocodiles. We find that, taken together, the currently existing protections (described above in the Factor D section, Inadequacy of Existing Regulatory Mechanisms) are adequate, and they will remain adequate to protect the Morelet's crocodile and its habitat in the majority of its range now and within the foreseeable future if this proposed rule is finalized and the protections of the Act are removed.

(2) The detection of organic and inorganic environmental contaminants in Morelet's crocodile eggs in Belize indicates that impacts from concentrations of environmental contaminants may represent a potential threat because Morelet's crocodiles have a long lifespan and remain reproductively active once they attain sexual maturity. However, there is no evidence that environmental contaminants are currently affecting populations (numbers and reproduction appear to be robust). In order to determine that environmental contaminants may be a threat to the Morelet's crocodile in the future, their presence in the environment must be occurring at a level that affects the long-term population levels over at least a significant portion of the range of the species. We know of no ongoing monitoring of environmental contaminants anywhere in the species' range. Although 45 articles within the Mexican LGEEPA deal with environmental contamination (CONABIO 2005, Annex 3, p. 1), we have not received a detailed analysis of the specific provisions and their relevance to Morelet's crocodile. We are unaware of regulatory mechanisms governing activities that discharge environmental contaminants that potentially affect Morelet's crocodile in Belize. However, we do not have any data to indicate that environmental contaminants are likely to become a threat in the foreseeable future.

(3) Although habitat loss and degradation continues to negatively affect the habitat for some local populations of the Morelet's crocodile, we do not have any information to indicate that it is of sufficient magnitude to have a range-wide impact on the species to the point that would cause the Morelet's crocodile to meet the definition of either an endangered or a threatened species. The species' relatively wide distribution throughout its historical range and apparent tolerance for habitats in proximity to agriculture, grazing, and human habitation are substantial factors mitigating these impacts to Morelet's crocodiles over the next several decades. We anticipate that these conditions will remain essentially the same in the foreseeable future due to the adequate regulatory mechanisms in place to protect suitable habitat for the Morelet's crocodile in the majority of its range (see discussion above under the Factor D., Inadequacy of Existing Regulatory Mechanisms, section).

The Morelet's crocodile continues to be affected by a variety of potential residual threats. It is likely that development, hurricanes and other storm events, random human disturbance, fishery activities, oil spills, and infestation by parasites will continue to impact individual crocodiles into the future. Although these impacts are generally expected to continue intermittently at low levels into the foreseeable future, we do not expect these impacts to affect significantly the Morelet's crocodile to the point that it would result in declines in the range-wide status of the species.

Although some potential threats to the Morelet's crocodile remain throughout its range, as discussed above, they are at a low enough level such that they are not having a significant population level or demographic effect on Morelet's crocodile populations in Mexico and Belize, in fact, most populations are stable and/or increasing and still occur in their historic range. Any low level threats occurring in Guatemala are currently being addressed by the Guatemalan national and provincial governments with the help of the local and international NGO community. We do not believe, based on the best

available information, that the extent of potential threats to the species in Guatemala, even if they increase will cause the Morelet's crocodile to become threatened or endangered in the future. The government of Guatemala recognizes the importance of this and other landscape species in the Guatemalan Maya Biosphere and are implementing regulatory and enforcement controls to combat human encroachment, land clearing, fires and other illegal activities that may pose a threat to these species. In addition, Guatemala's request to keep Guatemala's populations of Morelet's crocodile in Appendix I attests to their commitment to ensure trade does not affect Guatemala's wild Morelet's crocodile populations.

Having determined that the Morelet's crocodile is no longer endangered or threatened throughout its range, we must next determine if the threats to the Morelet's crocodile are non-uniformly distributed such that populations in one portion of its range experience higher level of threats that populations in other portions of its range.

*Significant Portion of the Range*

Section 4(c)(1) of the Act requires the Service to determine whether a portion of a species' range, if not all, meets the definition of endangered or threatened. A portion of a species' range is significant if it is part of the current range of the species and it contributes substantially to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species. In other words, in considering significance, the Service asks whether the loss of this portion likely would eventually move the species towards extinction, but not to the point where the species should be listed as threatened or endangered throughout all of its range.

We evaluated the Morelet's crocodile's range in the context of whether any potential threats are concentrated in a portion of its range such that if there were concentrated impacts, that crocodile population might be in danger of extinction. We further evaluated whether any such population or complex might constitute a significant portion of the species range.

*Guatemala's Contribution to Representation, Resiliency, or Redundancy of the Species*

As part of the SPR analysis, we look to see, in terms of species or habitat, if Guatemala contributes substantially to the representation, resiliency, or redundancy of the Morelet's crocodile species.

*Resiliency* of a species allows the species to recover from periodic disturbance. A species will likely be more resilient if large populations exist in high-quality habitat distributed throughout the range of the species in such a way as to capture the environmental variability found within the range of the species. It is likely that the larger size of a population will help contribute to the viability of the species overall. Thus, a portion of a range of a species may make a meaningful contribution to the resiliency of the species if the area is relatively large and contains particularly high-quality habitat or if its location or characteristics make it less susceptible to certain threats than other portions of the range. When evaluating whether or how a portion of the range contributes to the resiliency of the species, it may help to evaluate the historical value of the portion of the range and how frequently the portion is used by the species. In addition, the range may contribute to the resiliency for other reasons—for instance, it may contain an important concentration of certain types of habitat that are necessary for the species to carry out its life history functions, such as breeding, feeding, migration, dispersal or wintering.

Guatemala comprises a small portion of the overall range of the Morelet's crocodile. The estimated number of Morelet's crocodiles in Guatemala is 13% of the potential global population estimate. The extent of undisturbed habitat in Guatemala is estimated to be 19% of the total range estimate (CONABIO 2005, pp. 16–19). Past resource extraction, drug trade, a lack of enforcement, and financial issues limited Guatemala's protected areas' potential contribution to the conservation status of the species (IARNA URL IIA 2006, pp. 88–92), causing habitat loss, habitat degradation, habitat fragmentation, overutilization of resources, environmental contamination, and the introduction of exotic species. These past threats may have lowered the quality of habitat available to Morelet's crocodile. In addition, Morelet's crocodile habitat consists of flooded savannahs and marshes that are typical of the species habitat throughout its range, but are not representative of the environmental variability found within the total range of the species. The species' range, specifically Laguna del Tigre National Park, was in the past more susceptible to certain threats. The small size of the Guatemalan portion of the Morelet's crocodile's range; the small population size of the species in Guatemala; and the past threats that affected the quality of the habitat limits Guatemala's contribution to resiliency. Therefore, we find that the population of the Morelet's crocodile in Guatemala does not significantly contribute to the resiliency of the species.

*Redundancy* of populations may be needed to provide a margin of safety for the species to withstand catastrophic events. This does not mean that any portion that provides redundancy is a significant portion of the range of the species. The idea is to conserve enough areas of the range such that random perturbations in the system act on only a few populations. Therefore, each area must be examined based on whether that area provides an increment of redundancy that is important to the conservation of the species.

Morelet's crocodile distribution in the northern State of Petén, Guatemala has been described as fragmented, with the healthiest populations in the northern region of Petén, where human impact was lower (Castañeda Moya 1997, p. 1; 1998a, p. 521). While Guatemala has regulatory mechanisms in place to protect their national parks, it appears that the Government of Guatemala, until recently, was not able to enforce them adequately. Although Guatemala has conserved several areas of the Morelet's crocodile's range, past threats limited their potential contribution to the conservation of the species (IARNA URL IIA 2006, pp. 88–92). The idea is to conserve enough areas of the range such that random perturbations in the system act on only a few populations, however, Guatemala has been unable in the past to adequately conserve Morelet's habitat. Thus we conclude that the population of the Morelet's crocodile in Guatemala does not significantly contribute to the redundancy of the species.

*Representation* ensures that the species' adaptive capabilities are conserved. Specifically, the portion should be evaluated to see how it contributes to the genetic, morphological, physiological, behavioral, or ecological diversity of the species. A substantial contribution to the representation includes populations or portions of the range that are markedly genetically divergent, occur in a unique or unusual ecological setting, or have unique morphological, physiological, or behavioral characteristics. The loss of genetically based diversity or unique adaptations may substantially reduce the ability of the species to respond and adapt to future environmental changes. For

example, a peripheral population may contribute meaningfully to representation if there is evidence that it provides genetic diversity due to its location on the margin of the species habitat requirements. Morphological, physiological, and behavioral diversity across the range of the species may also indicate adaptations to environmental variation or genetically based differences, and therefore should be considered when evaluating a portion's contribution to representation.

We could not find any data or information that the Morelet's crocodile in Guatemala is ecologically unusual, unique, or otherwise significant to the species as a whole in any way (for example, in terms of species or habitat). Morelet's crocodile habitat consists of flooded savannahs and marshes that are typical of the species habitat throughout its range. In addition, we have no information indicating that the Guatemala population is genetically different from the remainder of the range. We therefore conclude that the range of the Morelet's crocodile in Guatemala does not significantly contribute to the representation of the species.

Because the Morelet's crocodile's range in Guatemala does not contribute significantly towards the resiliency, redundancy or representation of the species, we do not consider Guatemala to be a significant portion of the range of the species.

**Finding**

The PVA conducted by Sanchez (Sánchez 2005) suggests the long-term prognosis for the survival and genetic diversity of the Morelet's crocodile throughout its range is very good, estimating that the average time to reach the quasi-extinction threshold of 500 individuals being 483 years (Sánchez 2005, pp. 43–51). Under the PVA, the probability of survival of a population of 30,000 individuals, subject to high-stress conditions is approximately 86 percent, and maintaining their genetic diversity is approximately 99 percent.

A species is "endangered" for purposes of the Act if it is in danger of extinction throughout all or a significant portion of its range and is "threatened" if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range. The word "range" is used here to refer to the range in which the species currently exists, and the word "significant" refers to the value of that portion of the range being considered to the conservation of the species.

The Act does not define the term "foreseeable future." However, in a January 16, 2009, memorandum addressed to the Acting Director of the Service from the Office of the Solicitor, Department of the Interior, concluded, "* * * as used in the [Act], Congress intended the term 'foreseeable future' to describe the extent to which the Secretary can reasonably rely on predictions about the future in making determinations about the future conservation status of the species" (U.S. Department of the Interior 2009, page 1). "Foreseeable future" is determined by the Service on a case-by-case basis, taking into consideration a variety of species-specific factors such as lifespan, genetics, mating systems, demography, threat projection timeframes, and environmental variability.

In considering the foreseeable future as it relates to the status of the Morelet's crocodile, we defined the "foreseeable future" to be the extent to which, given the amount and substance of available data, events or effects can and should be anticipated, or the threats reasonably extrapolated. We considered the historical data to identify any relevant threats acting on the species, ongoing conservation efforts, data on species abundance and persistence at individual sites since the time of listing, and identifiable informational gaps and uncertainties regarding residual and emerging threats to the species, as well as population status and trends. We then looked to see if reliable predictions about the status of the species in response to those factors could be drawn. We considered the historical data to identify any relevant existing trends that might allow for reliable prediction of the future, in the form of extrapolating the trends. We also considered whether we could reliably predict any future events, not yet acting on the species and, therefore, not yet manifested in a trend, that might affect the status of the species, recognizing that our ability to make reliable predictions into the future is limited by the variable quantity and quality of available data. Following a range-wide threats analysis, we evaluated whether the Morelet's crocodile is endangered or threatened in any significant portion(s) of its range.

As required by the Act, we considered the five factors in assessing whether the Morelet's crocodile is threatened or endangered throughout all or a significant portion of its range. We reviewed the petition, information available in our files, comments and information received after the publication of our 90-day finding (71 FR 36743), and other available published and unpublished information, and consulted with recognized experts. We have carefully assessed the best available scientific and commercial data regarding the past, present, and future threats faced by the Morelet's crocodile. This status review found that although some localized impacts to individual Morelet's crocodiles still occur, such as habitat loss from agricultural development, they have been reduced enough so as to not impact the species on a population level. In addition to the five-factor analysis, we also considered the progress made by the range countries towards addressing previous threats to Morelet's crocodiles. We took into consideration the conservation actions that have occurred, are ongoing, and are planned. Since listing, the species' status has improved because of the following:

- National and international laws and treaties have minimized the impacts of hunting and trade in wild-caught specimens.
- Morelet's crocodile populations are stable or increasing.
- Total population size is approximately 19,400 adults in the three range countries.
- Species experts now widely characterize Morelet's crocodile populations as healthy.
- The current range-wide distribution of Morelet's crocodile now closely resembles historical range-wide distribution
- Range countries have improved efforts to protect and manage Morelet's crocodile habitat.
- The long-term prognosis for the survival and genetic diversity of the Morelet's crocodile throughout its range is very good

In sum, the ongoing development and updating of management plans, the active management of habitat, the ongoing research, and the protections provided by laws and protected lands provide compelling evidence that recovery actions are successful.

The primary factor that led to the listing of the Morelet's crocodile was trade. However, the trend today is towards increasing population sizes, with trade restricted to captive-bred specimens only. We find that the localized impacts identified in the three range countries, when combined with the increase in population sizes, ongoing active research and management, and protections provided by range countries, those impacts are not of sufficient imminence, intensity, or magnitude to indicate that the Morelet's crocodile is threatened with extinction now or in the foreseeable future. Consequently, we have determined that Morelet's crocodile should be removed from the list of

endangered and threatened wildlife and plants.

**Distinct Vertebrate Population Segments**

Section 3(15) of the Act defines "species" to include "any species or subspecies of fish and wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). After assessing whether or not the Morelet's crocodile is endangered or threatened throughout its range, we next consider whether a distinct vertebrate population segment (DPS) of the Morelet's crocodile meets the definition of endangered or is likely to become endangered in the foreseeable future (threatened).

To interpret and implement the DPS provisions of the Act and congressional guidance, the Service and the National Marine Fisheries Service (now the National Oceanic and Atmospheric Administration—Fisheries Service), published the *Policy Regarding the Recognition of Distinct Vertebrate Population Segments* (DPS Policy) in the **Federal Register** on February 7, 1996 (61 FR 4722). Under the DPS Policy, we evaluate a set of elements in a three-step process in order to make our decision concerning the establishment and classification of a possible DPS. These elements are applied similarly for additions to or removals from the Federal List of Endangered and Threatened Wildlife and Plants.

These elements include: (1) The discreteness of a population in relation to the remainder of the taxon to which it belongs; (2) the significance of the population segment to the taxon to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (addition to the list), delisting (removal from the list), or reclassification (*i.e.,* is the population segment endangered or threatened).

First, the Policy requires the Service to determine that a vertebrate population is discrete in relation to the remainder of the taxon to which it belongs. Discreteness refers to the ability to delineate a population segment from other members of a taxon based on either (1) Physical, physiological, ecological, or behavioral factors, or (2) international governmental boundaries that result in significant differences in control of exploitation, management, or habitat conservation status, or regulatory mechanisms that are significant in light of section 4(a)(1)(D) of the Act—the inadequacy of existing regulatory mechanisms.

Second, if we determine that the population is discrete under one or more of the discreteness conditions, then a determination is made as to whether the population is significant to the larger taxon to which it belongs in light of Congressional guidance (see Senate Report 151, 96th Congress, 1st Session) that the authority to list DPSs be used "sparingly and only when the biological evidence indicates that such action is warranted." In carrying out this examination, we consider available scientific evidence of the population's importance to the taxon to which it belongs. This consideration may include, but is not limited to the following: (1) The persistence of the population segment in an ecological setting that is unique or unusual for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside of its historic range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics from other populations of the species. A population segment needs to satisfy only one of these conditions to be considered significant.

Lastly, if we determine that the population is both discrete and significant, then the Policy requires an analysis of the population segment's conservation status in relation to the Act's standards for listing (addition to the list), delisting (removal from the list), or reclassification (*i.e.,* is the population segment endangered or threatened).

**Discreteness**

The first step in our DPS analysis for the Morelet's crocodile was to determine whether there were any populations of the Morelet's crocodile that were discrete in relation to the remainder of the taxon to which it belongs. Under the DPS Policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon because of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation; or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act—the inadequacy of existing regulatory mechanisms. Recognition of international boundaries when they coincide with differences in the management, status, or exploitation of the species under the Act is consistent with CITES, which recognizes international boundaries for these same reasons. CITES is implemented in the United States by the Act.

*Physical, Physiological, Ecological, or Behavioral Factors*

We do not have any data or information to indicate that there are any physical, physiological, ecological, or behavioral facts that separate any populations of the Morelet's crocodile. The historical distribution of the Morelet's crocodile comprised the eastern coastal plain of Mexico, most of the Yucatan Peninsula, Belize, and northern Guatemala (Hurley 2005, p. 1), with an estimated historical distribution covering 173,746 $mi^2$ (450,000 $km^2$) (Sigler and Domínguez Laso 2008, pp. 11–12). The Morelet's crocodile is a wide-ranging species that occurs primarily in freshwater environments such as lakes, swamps, and slow-moving rivers. This species of crocodile can temporarily inhabit intermittent freshwater bodies such as flooded savannahs and is occasionally observed in brackish coastal lagoons (Villegas 2006, p. 8).

We do not have any data or information to indicate that any populations of the Morelet's crocodile exhibit genetic or morphological discontinuity that may indicate that they are a separate population. Although we do not have any data or information on the dispersal strategies for the Morelet's crocodile that would indicate a population may be discrete, we have no evidence to suggest that there are barriers that would prevent the Morelet's crocodile from dispersing within its known range. The current range-wide distribution of the Morelet's crocodile closely mirrors the historical range-wide distribution, and there are large amount of high quality of habitat available. Therefore, we have no evidence suggesting that the Morelet's crocodile is isolated in any part of its range.

*International Differences in Species' Conservation Status*

As discussed above in the Factor D section, Inadequacy of Existing Regulatory Mechanisms, all three range

countries are Parties to CITES. In addition, data and information available to the Service indicates that all three range countries have Federally protected-species and protected-areas legislation under the jurisdiction of specific ministries or departments that control activities that affect the Morelet's crocodile and its habitat. Mexico's Federal legal framework is particularly robust. The CITES National Legislation Project (*http://www.CITES.org*) deemed both Mexico and Guatemala's national legislation as Category 1, meeting all the requirements to implement CITES, with Belize in Category 3 (not meeting the requirements for implementing CITES), but having submitted a national legislation plan and draft of legislation that has not yet been adopted.

Based on current data and information available to the Service, the Governments of Mexico, Guatemala, and Belize appear to be adequately enforcing their respective legal frameworks, both at the Federal level and under CITES. Mexico and Belize contain the majority of wild Morelet's crocodiles (87 percent) and the majority of the potentially suitable habitat (81 percent) throughout the species' range. Because of this adequate enforcement, the majority of the threats to the species and its habitat have been eliminated in Mexico and Belize. Although some residual threats remain, these threats have been reduced to a low enough level that they are not having significant population level or demographic effects.

In contrast, based on data and information available to the Service, it appears that in the past, the Government of Guatemala was not able to enforce adequately their legal framework to protect the Morelet's crocodile and its habitat in Guatemala. The lack of funding and personnel made enforcement of Guatemala's legal framework especially challenging. Conservation actions were often overwhelmed by slow economic development, high levels of poverty, unequal land distribution, a highly segmented society, and the effects of more than three decades of civil war (Birner *et al.* 2005, pp. 285, 292).

For example, per ParkWatch (2003) noted that a designation as a national park or important wetland conservation area in Guatemala does not necessarily afford protection to the Morelet's crocodile or its habitat. The Laguna del Tigre National Park, located in Petén region of Guatemala, is home to the largest population of Morelet's crocodiles in Guatemala. The park was considered by ParkWatch as critically threatened due to land grabs, the presence of human settlements, expanding agriculture and cattle ranching, poaching, forest fires, the oil industry, and almost complete lack of institutional control over the area (ParksWatch 2003, pp. 1, 11). However, by 2004, ParksWatch stated that the staff at Laguna del Tigre had doubled in size since their 2003 report. Seventy-three park rangers, 10 archeological site guards and 96 Army personnel were hired to staff the park and since the increase in staffing, both the park and the biotope are "constantly patrolled." In addition, the WCS continued its "Biodiversity Conservation at a Landscape Scale" program (with USAID) for Guatemala and has provided a comprehensive plan with specific goals to preserve and protect wildlife in the Maya Biosphere Reserve in Guatemala through conserving wildlife species and their habitat, while maintaining the economic productivity of renewable natural resources. They are fulfilling these goals by establishing specific parameters. Namely, "to develop adaptive and participatory strategy to reduce threats to wildlife in the MBR; to develop, implement and monitor sustainable mechanisms to reduce threats to wildlife and ecosystems across the MBR landscape; to learn and teach best management practices for the conservation of the MBR and beyond; and to guide, design and test wildlife-focused planning" (WCS 2008, page 3). These efforts were endorsed by the president of Guatemala through his office's attendance at the Mesa Multisectorial roundtable discussion held in Guatemala in 2009.

Many outstanding accomplishments have been achieved in Guatemala in terms of biodiversity conservation (IARNA URL IIA 2006, p. 22), and efforts to achieve desired levels of environmental management are ongoing. In August 2010, the president of Guatemala announced that he is deploying 250 soldiers to recover fully all the protected zones of El Peten in the Laguna del Tigre section of the MBR. This "Green Battalion" is being deployed specifically protect the Laguna del Tigre National Park and work jointly with the National Civil Police and the Attorney General's Office to combat drug trafficking and the illegal harvest of natural resources and archaeological sites of that region of the MBR (Latin American Herald Tribune, December 6, 2010). Additional help from WCS and USAID includes establishing over flights to monitor fires, locating illegal settlements and notifying the national and provincial government of illegal activities, as well as the national media. These efforts have resulted in additional personnel added to parks, removal of settlements, consistent patrols and cessation of illegal activities, and educating locals and concessionaires on best management practices for sustainable use of forest products. In addition, the CITES National Legislation Project (*http://www.CITES.org*) deemed both Mexico and Guatemala's national legislation as Category 1, meeting all the requirements to implement CITES, with Belize in Category 3 (not meeting the requirements for implementing CITES), but having submitted a national legislation plan and draft of legislation that has not yet been adopted.

Castañeda Moya (1998a, p. 521; 1998b, p. 13) listed illegal hunting as a threat to Morelet's crocodile in the Petén region of Guatemala (CITES 2010a), but did not provide a numerical estimate of the take. ARCAS, an animal welfare group in Guatemala, reported the rescue or recovery of 49 live individuals (about 8 per year), most likely from pet dealers or private individuals, during the period 2002–2007 (ARCAS 2002, p. 3; 2003, p. 2; 2004, p. 2; 2005, p. 2; 2006, p. 3; 2007, p. 3).

The Government of Guatemala acknowledged these issues when it opposed Mexico's 2010 CITES proposal to transfer the Morelet's crocodile from Appendix I to Appendix II throughout its range. Specifically, the Government of Guatemala opposed transferring Morelet's crocodiles in Guatemala to Appendix II based on the lack of knowledge of the population and population trends in Guatemala, the potential threats to the species from deforestation and pollution in Guatemala, and the likelihood of illegal, cross-border trade taking place in Guatemala. Morelet's crocodiles in Guatemala remain in CITES Appendix I (CITES 2010a, p. 2). As a result of the Government of Guatemala's past inability to adequately enforce their legal framework, the Morelet's crocodile in Guatemala may be still subject to some illegal hunting and some destruction of habitat due to previous human encroachment. This constitutes a difference in control of exploitation, management of habitat, conservation status, or regulatory mechanisms that is significant in light of section 4(a)(1)(D) of the Act.

*Conclusion on Discreteness*

We have determined, based on the best available data and information that the population of Morelet's crocodiles in Guatemala is discrete due to the significant difference in the control of exploitation, management of habitat,

conservation status, or regulatory mechanisms between international boundaries. Therefore, we have determined that the Guatemala population of the Morelet's crocodile meets the requirements of our DPS Policy for discreteness. We will next conduct an analysis of the Guatemala population of the Morelet's crocodile under the significance element of the DPS Policy.

**Significance**

Having determined that the population of Morelet's crocodiles in Guatemala is discrete under one or more of the discreteness conditions described in the DPS Policy, we must then determine whether the population in Guatemala is significant. We evaluate its biological and ecological significance based on "the available scientific evidence of the discrete population segment's importance to the taxon to which it belongs" (61 FR 4725). We make this evaluation in light of congressional guidance that the Service's authority to list DPSs be used "sparingly." Since precise circumstances are likely to vary considerably from case to case, the DPS Policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS Policy describes four possible classes of information that provide evidence of a population segment's biological and ecological importance to the taxon to which it belongs. As specified in the DPS Policy (61 FR 4722), consideration of the population segment's significance may include, but is not limited to the following: (1) Persistence of the population segment in an ecological setting that is unusual or unique for the taxon; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside of its historic range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics. A population segment needs to satisfy only one of these conditions to be considered significant.

*Persistence in a Unique Ecological Setting*

As stated in the DPS Policy, the Service believes that occurrence in an unusual ecological setting may be an indication that a population segment represents a significant resource warranting conservation under the Act (61 FR 4724). In considering whether the population occupies an ecological setting that is unusual or unique for the taxon, we evaluate whether the habitat includes unique features not used by the taxon elsewhere and whether the habitat shares many features common to the habitats of other populations. As stated above, the Morelet's crocodile is a wide-ranging species that occurs primarily in freshwater environments such as lakes, swamps, and slow-moving rivers. This species of crocodile can temporarily inhabit intermittent freshwater bodies such as flooded savannahs and is occasionally observed in brackish coastal lagoons (Villegas 2006, p. 8). We do not have any evidence to indicate that the Guatemala population of the Morelet's crocodile occurs in habitat that includes unique features not used by the taxon elsewhere in its range. Morelet's crocodile habitat in the Laguna del Tigre National Park consists of flooded savannahs and marshes that are typical of the species habitat throughout its range. Therefore, we conclude that the discrete population of Morelet's crocodiles in Guatemala is not "significant" because of persistence in a unique or unusual ecological setting.

*Significant Gap in the Taxon's Range*

As stated in the DPS Policy, the Service believes that evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon, is potentially an indication that a population segment represents a significant resource warranting conservation under the Act (61 FR 4724). As the Ninth Circuit has stated, "[t]he plain language of the second significance factor does not limit how a gap could be important," *National Ass'n of Home Builders* v. *Norton,* 340 F.3d 835, 846 (9th Cir. 2003). Thus, we considered a variety of ways in which the loss of the Guatemala population of the Morelet's crocodile might result in a significant gap in the range of species. Namely, we considered whether Guatemala contributed to the resiliency, redundancy, or representation of the taxon's range. As stated previously in the *Significant Portion of the Range* analysis, the Service felt that due to the small size of the Guatemalan portion of the Morelet's crocodile's range and the small population size of the species in Guatemala, its overall contribution to the species was limited. While Guatemala has regulatory mechanisms in place to protect their national parks, it appears that until recently, the government was unable to enforce them adequately. Although Guatemala has conserved several areas of the Morelet's crocodile's range, past threats limited this population's contribution to the species (IARNA URL IIA 2006, pp. 88–92). Morelet's crocodile habitat consists of flooded savannahs and marshes that are typical of the species habitat throughout its range, but are not ecologically unusual, unique, or otherwise significant to the species as a whole in any way. In addition, we found no information indicating that the Guatemala population is genetically different from the remainder of the range.

*Conclusion of Significant Gap in the Taxon's Range*

The Morelet's crocodile in Guatemala does not significantly contribute to the resiliency, redundancy or the representation of the species or its range, including but not limited to, the size of the range, habitat quality, habitat variability, or genetic uniqueness. The majority of the species range occurs in Mexico and Belize, which contain the majority of all wild Morelet's crocodiles (87 percent) and the majority of the potentially suitable habitat throughout the species' range (81 percent). Should a discrete population segment of Morelet's crocodiles in Guatemala decrease for any reason (which we have concluded is unlikely), then it is likely that Morelet's crocodiles in Mexico and Belize would expand their range and re-colonize any potential habitat in Guatemala. Thus, we feel the loss of a discrete population segment in Guatemala would not create a significant gap in the range of the species, nor does it represent a significant resource warranting conservation under the Act.

*Natural Occurrence of a Taxon Abundant Elsewhere as an Introduced Population*

As stated in the DPS Policy, the Service believes that evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside of its historic range may be an indication that a population segment represents a significant resource warranting conservation under the Act (61 FR 4724). This element does not apply to the Morelet's crocodile in Guatemala. The Guatemala population of the Morelet's crocodile does not represent the only surviving natural occurrence of the Morelet's crocodile throughout the range of the taxon. After the protections of the Act and CITES were put in place in the 1970s, populations of Morelet's crocodiles increased and expanded their

range naturally over time to the point that they have recovered and are now found in all areas of their historic range.

*Marked Differences in Genetic Characteristics*

As stated in the DPS Policy, the Service believes that evidence that a discrete population segment differs markedly from other populations of the species in its genetic characteristics may be an indication that a population segment represents a significant resource warranting conservation under the Act (61 FR 4724).

Genetic diversity and integrity is a relatively complicated subject with respect to the Morelet's crocodile, and our knowledge across the three range countries is uneven. The genetic data we do have are with respect to hybridization between Morelet's crocodiles and American crocodiles. Thus, we have no information indicating that the Guatemala population is markedly different from the remainder of the range.

*Conclusion on Significance*

First, we do not have any data or information to indicate that the Guatemala population of the Morelet's crocodile occurs in habitat that includes unique features not used by the taxon elsewhere in its range. Morelet's crocodile habitat in the Laguna del Tigre National Park consists of flooded savannahs and marshes that are typical of the species habitat throughout its range. Second we conclude that loss of Morelet's crocodiles in 13 percent of their range would not constitute a significant gap in the range of the species due to the loss of a population that is ecologically unusual, unique, or otherwise significant to the species as a whole in any way (for example, in terms of species or habitat) or that contributes substantially to the representation, resiliency, or redundancy of the species. Third, the Guatemala population of the Morelet's crocodile does not represent the only surviving natural occurrence of the Morelet's crocodile throughout the range of the taxon. Finally, the Guatemala population of the Morelet's crocodile does not have any genetic characteristics that are markedly different from Morelet's crocodiles elsewhere in the range of the taxon. Therefore, based on the information available to the Service, we conclude that the discrete population of Morelet's crocodiles in Guatemala does not meet the requirements under our DPS Policy for significance.

**Conclusion of DPS Analysis**

Based on the best available data and information, we conclude that the Guatemala population of the Morelet's crocodile meets the requirements of our DPS Policy for discreteness, but does not meet the requirements of our DPS policy for significance in relation to the remainder of the taxon (*i.e.,* Morelet's crocodiles in Mexico and Belize). The population of Morelet's crocodiles in Guatemala is discrete due to the significant difference in the control of exploitation, management of habitat, conservation status, or regulatory mechanisms between international boundaries. This difference is evidenced by the fact that Morelet's crocodiles in Guatemala remain listed under Appendix I of CITES, while those in Mexico and Belize were downgraded to Appendix II. The discrete population of Morelet's crocodiles in Guatemala does not meet the requirements of our DPS policy for significance because it: (1) Does not occur in habitat that includes unique features not used by the taxon elsewhere in its range; (2) would not constitute a significant gap in the range of the species due to the loss of a population that contributes substantially to the representation, resiliency, or redundancy of the species; (3) does not represent the only surviving natural occurrence of the Morelet's crocodile throughout the range of the taxon; and (4) does not have any genetic characteristics that are markedly different from Morelet's crocodiles elsewhere in the range of the taxon. Therefore, we conclude that the population of the Morelet's crocodile in Guatemala is not a DPS pursuant to our DPS Policy, and, therefore, is not a listable entity under section 3(15) of the Act.

**Effects of This Proposed Rule**

This proposed rule, if made final, would revise our regulations at 50 CFR 17.11(h) by removing the Morelet's crocodile throughout its range from the Federal List of Endangered and Threatened Wildlife. Our regulations do not authorize designating critical habitat in areas outside of the United States. Specifically, our regulations at 50 CFR 424.12(h) specify that critical habitat shall not be designated within foreign countries or in other areas outside of U.S. jurisdiction. Because no critical habitat was ever designated for this species, this rule would not affect 50 CFR 17.95.

The prohibitions and conservation measures provided by the Act, particularly through section 9, would no longer apply. This rulemaking, however, does not affect the protection given to the Morelet's crocodile under CITES. Delisting under the Act would allow import, re-export, and commercial activity in Morelet's crocodiles and their parts and products originating from any country, including the three range countries, provided that the requirements of CITES are met.

**Post-delisting Monitoring**

Section 4(g)(1) of the Act requires the Secretary of Interior, through the Service, to implement a system in cooperation with the States to monitor for not less than 5 years the status of all species that are removed from the lists of endangered and threatened wildlife and plants (50 CFR 17.11, 17.12) due to recovery. This monitoring requirement is to ensure prevention of significant risk to the well-being of recovered species.

Species monitoring is also called for under CITES. CITES Resolution Conf. 9.24 (Rev. CoP 15), provides criteria for including species under CITES Appendices I and II. Through the resolution, the parties have resolved that the status of species included in Appendices I and II should be regularly reviewed by the range countries and proponents, in collaboration with the CITES Animals Committee or Plants Committee, in order to monitor the effectiveness of CITES protections, subject to the availability of funds (CITES 2007a, p. 3).

At the international level, perhaps the most important ongoing conservation effort for the Morelet's crocodile is the agreement by the three range countries to develop and implement the Belize-Guatemala-Mexico Tri-national Strategy for the Conservation and Sustainable Management of Morelet's Crocodile (*Crocodylus moreletii*) (Estrategia Tri-nacional Belice-Guatemala-México para la Conservación y el Manejo Sostenible del Cocodrilo de Morelet (*Crocodylus moreletii*) (Tri-national Strategy) (Sánchez 2006).

This initiative began in June 2001 at Laguna del Tigre National Park, Petén, Guatemala, when representatives of the three countries met to discuss matters of mutual interest. A follow up meeting attended by about 25 species experts and government officials from all three range countries took place in April 2006 (Mexico City, Mexico). Two working groups were formed: (1) Technical and Scientific Matters; and (2) Administration, Management, and Uses. Group members discussed technical issues for two days, and generated a series of products, commitments, and agreements. The first group produced or agreed to compile a series of documents,

including distribution maps, survey techniques, scientific literature, and databases (*e.g.,* geographic information system). The second group agreed to work toward a regional assessment of the conservation status of the Morelet's crocodile, as well as development and implementation of regional actions to improve the conservation status of the species (institutional capacity building, project development and implementation, and development of a regional captive-breeding program). The final product of the workshop was the development of "Estrategia Regional para el Manejo y la Conservación del Cocodrilo de Morelet (*Crocodylus moreletii*) (Regional Strategy for the Management and Conservation of the Morelet's Crocodile) (Regional Strategy), found on pp. 43–53 of the Tri-national Strategy document (Sanchez 2006). This Regional Strategy outlines a series of objectives, products, and working protocols to accomplish the goals of the Tri-national Strategy. As these tasks are completed, they will significantly enhance the conservation status of the Morelet's crocodile.

According to Sánchez Herrera and Álvarez-Romero (2006), as result of this initiative, the three range countries have agreed to implement the Regional Strategy, which also includes monitoring the species. The three range countries plan to implement the Regional Strategy by:

(1) Conducting population surveys in defined priority areas using systematic and coordinated monitoring, with standardized fieldwork methods and techniques.

(2) Developing a shared biological and geographical information system.

(3) Identifying priority areas and routes for conservation and surveillance, along with those for future potential for ranching.

(4) Supporting and developing educational programs and outreach materials.

(5) Promoting personnel training and experience exchange, including field techniques and surveillance.

(6) Promoting species-friendly production projects such as close-cycle farms (and eventually future ranching), along with the development of a legal regional market and a certification strategy for Morelet's crocodile products.

(7) Raising funds in support of the activities and tasks outlined in the Strategy (Sánchez Herrera and Álvarez-Romero 2006, p. 263).

The Government of Mexico is making efforts to design and implement a countrywide monitoring program for the populations and habitat of the Morelet's crocodile, including the possibility of involving Belize and Guatemala. The aim is to build on the experiences and results of the COPAN Project and the suggestions made at the 23rd meeting of the CITES Animals Committee (Geneva, April 2008, see the Animals Committee summary record labeled as document AC23) to obtain better information about the status and trends of relevant populations of the species and their habitat. The program will be developed in the framework of the Tri-national Strategy (CITES 2010a, p. 9). The Government of Mexico has established contacts with the Governments of Belize and Guatemala as part of the Tri-National Strategy (CITES 2008, p. 32).

Stage 1 of the project is currently under way. It aims to develop a preliminary design of the program, considering relevant areas in the range of the species. Ideally, areas could be selected in the three countries, based on the COPAN Project and subsequent studies. The design will be reviewed and assessed in a 2010 workshop involving species experts and authorities, who will agree upon on the most appropriate methods and define time intervals, routes/localities and variables to take into account for crocodiles and their habitat. Manuals will be developed to ensure the effectiveness of fieldwork and training of staff. This stage will also include the design of a database where information will be organized and centralized (CITES 2010a, p. 9).

To date, the preliminary design proposes a monitoring effort with biannual sampling throughout the range of the species, with observations made in at least three routes per defined region (*e.g.* 12 regions in Mexico) using nighttime counts. In addition, one of the three routes per region will be selected for capture-mark-recapture of individuals and standard data/sample collection, as well as nest location and monitoring. Information obtained will make it possible to estimate relative abundance indices to detect variations in the population in time, determine the sex and age ratio and the general status and activity of individuals, and obtain data on the reproductive effort and success of the species, and on habitat critical for breeding (CITES 2010a, pp. 9–10).

Stage 2 will be implemented once the monitoring program has been published. It will consist of implementing the actions decided, including setting up and training the field teams, signing the relevant cooperation agreements, carrying out field work, and developing the database. Information stored in the database will be periodically analyzed to produce estimates of the population and its trends in the short, medium, and long term (CITES 2010a, pp. 9–10) (CITES 2010a, p. 10). We do not have any information on implementation progress for the Tri-National Strategy, and are seeking this information as part of this proposed rule.

In Belize, Dr. Frank Mazzotti (University of Florida) is collaborating with the Belize Forestry Department to develop a national crocodile management program (The Croc Docs 2009, pp. 1–8). This project seeks to develop, in collaboration with the Lamanai Field Research Center, a monitoring program for these species. Along with the monitoring program, the project will develop a training program for government and nongovernment personnel in Belize so that the monitoring program can be maintained. This long-term program has great potential to provide ongoing conservation benefits to the Morelet's crocodile in Belize. We do not have any information on implementation progress for this monitoring program in Belize, and are seeking this information as part of this proposed rule.

The Act requires the Service to monitor the status of the species in cooperation with the States. The Act defines the term "State" as "any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands." For species found entirely outside of the United States and therefore outside the areas defined as a "State" under the Act, we must cooperate with the species' range countries to meet the post-delisting monitoring requirements of the Act to ensure that the species will maintain its recovered status throughout its range after the protections of Act are removed. As the species experts, the range countries are best qualified to develop and implement a range-wide post-delisting monitoring plan for their species. If this proposed rule is finalized and the Morelet's crocodile is delisted under the Act, we will work with the range countries to monitor the status of the species throughout its range via their implementation of the existing monitoring requirements under CITES, the Tri-national Strategy, the Belizean monitoring program discussed above, and any additional monitoring plans that may be developed in the future.

**Peer Review**

In accordance with our joint peer review policy with the National Marine Fisheries Service, "Notice of Interagency Cooperative Policy for Peer Review in

Endangered Species Act Activities," that was published in the **Federal Register** on July 1, 1994 (59 FR 34270), and the Office of Management and Budget's Final Information Quality Bulletin for Peer Review, dated December 16, 2004, we will seek the expert opinions of at least three appropriate independent specialists regarding the science in this proposed rule. The purpose of peer review is to ensure that listing, reclassification, and delisting decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions in this proposed delisting of the Morelet's crocodile. We will summarize the opinions of these reviewers in the final decision document, and we will consider their input and any additional information we received as part of our process of making a final decision on this proposal. Such communication may lead to a final decision that differs from this proposal.

## Required Determinations

### *Clarity of the Rule*

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

### *National Environmental Policy Act*

We have determined that an environmental assessments or an environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with regulations adopted under section 4(a) of the Act. A notice outlining our reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

## References Cited

A complete list of the references used to develop this proposed rule is available upon request from the Endangered Species Program in our Headquarters office (see **FOR FURTHER INFORMATION CONTACT** section).

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

## Proposed Regulation Promulgation

Accordingly, we hereby propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

### § 17.11 [Amended]

2. Amend § 17.11(h) by removing the entry for "Crocodile, Morelet's" under "REPTILES" from the List of Endangered and Threatened Wildlife.

Dated: April 11, 2011.

**Daniel M. Ashe,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2011–9836 Filed 4–26–11; 8:45 am]

BILLING CODE 4310–55–P

# Reader Aids

**Federal Register**

Vol. 76, No. 81

Wednesday, April 27, 2011

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |
| TTY for the deaf-and-hard-of-hearing | **741–6086** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

### E-mail

**FEDREGTOC-L** (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, 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.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC-L** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

**Reminders.** Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

**CFR Checklist.** Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

## FEDERAL REGISTER PAGES AND DATE, APRIL

18001–18346 ..... 1
18347–18630 ..... 4
18631–18860 ..... 5
18861–19264 ..... 6
19265–19682 ..... 7
19683–19898 ..... 8
19899–20214 ..... 11
20215–20488 ..... 12
20489–20834 ..... 13
20835–21220 ..... 14
21221–21612 ..... 15
21613–21804 ..... 18
21805–21998 ..... 19
21999–22292 ..... 20
22293–22602 ..... 21
22603–22784 ..... 22
22785–23168 ..... 25
23169–23448 ..... 26
23449–23684 ..... 27

## CFR PARTS AFFECTED DURING APRIL

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 revision date of each title.

**1 CFR**

304 ..... 18635

**2 CFR**

**Proposed Rules:**
Ch. III ..... 20568
Ch. IX ..... 22058
Ch. XXX ..... 20568

**3 CFR**

**Proclamations:**
8641 ..... 18629
8642 ..... 18631
8643 ..... 18633
8644 ..... 19259
8645 ..... 19261
8646 ..... 19262
8647 ..... 19265
8648 ..... 19899
8649 ..... 20215
8650 ..... 20829
8651 ..... 20831
8652 ..... 20833
8653 ..... 21221
8654 ..... 21223
8655 ..... 21999
8656 ..... 22001

**Executive Orders:**
12824 (amended by 13569) ..... 19891
12835 (amended by 13569) ..... 19891
12859 (amended by 13569) ..... 19891
13507 (revoked by 13569) ..... 19891
13532 (amended by 13569) ..... 19891
13569 ..... 19891
13570 ..... 22291

**Administrative Orders:**
Memorandums:
Memorandum of April 6, 2011 ..... 19893
Memorandum of April 14, 2011 ..... 22003
Notices:
Notice of April 7, 2011 ..... 19897

**5 CFR**

4401 ..... 19901
Ch. LXX ..... 22293

**Proposed Rules:**
Ch. XXIII ..... 18954
Ch. XXIV ..... 18954
Ch. XLII ..... 18104
Ch. XLV ..... 20568
Ch. LXXIII ..... 22058

**6 CFR**

**Proposed Rules:**
5 ..... 18954

**7 CFR**

12 ..... 22785
46 ..... 20217
210 ..... 22603, 22785
215 ..... 22603, 22785
220 ..... 22603, 22785
225 ..... 22603, 22785
226 ..... 22603, 22785
245 ..... 22785
253 ..... 18861
301 ..... 21613, 23449
622 ..... 19683
624 ..... 19683
625 ..... 19683
916 ..... 21615
917 ..... 21615
924 ..... 21618
925 ..... 21620
946 ..... 18001
989 ..... 18003
1217 ..... 22752
1465 ..... 19683
1470 ..... 19683
4280 ..... 21110, 22608

**Proposed Rules:**
Ch. I ..... 22058
Ch. II ..... 22058
Ch. III ..... 22058
59 ..... 23513
301 ..... 18419
319 ..... 18419
Ch. IV ..... 22058
Ch. V ..... 22058
Ch. VI ..... 22058
Ch. VII ..... 22058
1217 ..... 22757
1260 ..... 18422
Ch. XIV ..... 22058
1463 ..... 19710
Ch. XV ..... 22058
Ch. XVI ..... 22058
Ch. XVII ..... 22058
Ch. XVIII ..... 22058
1942 ..... 22631
Ch. XX ..... 22058
Ch. XXVI ..... 22058
Ch. XXVII ..... 22058
Ch. XXVIII ..... 22058
Ch. XXIX ..... 22058
Ch. XXX ..... 22058
Ch. XXXI ..... 22058
Ch. XXXII ..... 22058
Ch. XXXIII ..... 22058
Ch. XXXIV ..... 22058
Ch. XXXV ..... 22058
Ch. XXXVI ..... 22058
Ch. XXXVII ..... 22058
Ch. XXXVIII ..... 22058
Ch. XLI ..... 22058
Ch. XLII ..... 22058

**8 CFR**

274a ..... 21225

**9 CFR**

56 ....22295
91 ....18347
145 ....22295
146 ....22295
147 ....22295
201 ....18348
391 ....20220
590 ....20220
592 ....20220

**Proposed Rules:**

Ch. I ....22058
11 ....20569
Ch. II ....22058
Ch. III ....22058

**10 CFR**

26 ....22802
430 ....19902, 22454
431 ....21580
835 ....20489

**Proposed Rules:**

Ch. II ....18965
26 ....23208
72 ....23513
73 ....23513, 23515
429 ....21813
430 ....18105, 18425, 19913, 20090, 22324
431 ....18127, 18428, 21673
Ch. III ....18954
Ch. X ....18954

**12 CFR**

213 ....18349
226 ....18354, 22948
563e ....20490
651 ....23459
652 ....23459
717 ....18365
748 ....18365
965 ....18367
966 ....18367
969 ....18367
987 ....18367
1270 ....18367

**Proposed Rules:**

42 ....21169
48 ....22633
Ch. II ....22662
204 ....20892
217 ....20892
230 ....20892
234 ....18445
236 ....21169
252 ....22648
327 ....21256
329 ....21265
330 ....21265
372 ....21169
381 ....22648
563h ....21169
741 ....21169
751 ....21169
1232 ....21169

**13 CFR**

109 ....18007
120 ....18376

**14 CFR**

23 ....19903
27 ....20490
39 ....18020, 18022, 18024, 18029, 18031, 18033, 18038, 18376, 18865, 20229, 20231, 20493, 20496, 20498, 20501, 20503, 22005, 22007, 22296, 22298, 22302, 22305, 22308, 22311, 22316, 22319, 23169
61 ....19267
71 ....18040, 18041, 18378, 20233, 20835, 22009, 22010, 22011, 22012, 22013, 22014, 22015, 22016
95 ....21622
97 ....18379, 18382, 21232, 21234
244 ....23110
250 ....23110
253 ....23110
259 ....23110
399 ....23110

**Proposed Rules:**

33 ....18130
39 ....18454, 18664, 18957, 18960, 18964, 19278, 19710, 19714, 19716, 19719, 19721, 19724, 20894, 20898, 21675, 21815, 21820, 21822, 22059, 22828, 22830, 23218
71 ....19281, 20279, 20280, 20281, 21266, 21268, 21269, 21825, 21826, 21827, 21828, 21830, 21831, 21832
121 ....21270
139 ....20570

**15 CFR**

730 ....21628
744 ....21628
774 ....22017

**Proposed Rules:**

806 ....19282

**16 CFR**

305 ....20233
306 ....19684
1217 ....22019, 22030
1303 ....18645
1610 ....22608

**Proposed Rules:**

1224 ....19914
1500 ....19926

**17 CFR**

Ch. I ....20835
240 ....20506

**Proposed Rules:**

Ch. I ....23221
Ch. II ....23221
46 ....22833
229 ....18966
240 ....18966
248 ....21169

**18 CFR**

40 ....23171, 00000
358 ....20838

**Proposed Rules:**

Ch. I ....18954
40 ....23222
284 ....20571
366 ....23516

**19 CFR**

101 ....22804

**Proposed Rules:**

4 ....18132
24 ....18132
351 ....23225

**20 CFR**

404 ....18383, 19692
416 ....18383, 19692

**Proposed Rules:**

404 ....20282
416 ....20282
Ch. IV ....18104
Ch. V ....18104
Ch. VI ....18104
Ch. VII ....18104
Ch. IX ....18104

**21 CFR**

179 ....20509
520 ....18648
522 ....22610
610 ....20513
866 ....22322
878 ....20840, 22805
884 ....21237
1314 ....20518

**Proposed Rules:**

Ch. I ....20568, 20588, 23520
1 ....20901
7 ....20901
11 ....19192, 19238
16 ....20575, 20901
101 ....19192, 19238
312 ....20575
511 ....20575
812 ....20575

**22 CFR**

41 ....23477
42 ....23477
62 ....23177

**Proposed Rules:**

120 ....20590
124 ....20590

**23 CFR**

1340 ....18042

**25 CFR**

**Proposed Rules:**

Ch. I ....20287
Ch. III ....18457
Ch. V ....20568

**26 CFR**

1 ....19268, 19907, 20524
300 ....21805
301 ....18059, 18385, 22611

**Proposed Rules:**

1 ....20593, 20595, 22064, 22336
31 ....20595, 22064
301 ....18134

**27 CFR**

19 ....19908
30 ....19908

**Proposed Rules:**

9 ....22338

**28 CFR**

0 ....21239
51 ....21239
94 ....19909

**29 CFR**

4 ....18832
516 ....18832
531 ....18832
553 ....18832
778 ....18832
779 ....18832
780 ....18832
785 ....18832
786 ....18832
790 ....18832
2520 ....18649
4022 ....21252
4042 ....18388
4044 ....18869

**Proposed Rules:**

Ch. II ....18104
Ch. IV ....18104
Ch. V ....18104
Ch. XVII ....18104
Ch. XXV ....18104
2520 ....19285
Ch. XL ....18134

**30 CFR**

**Proposed Rules:**

Ch. I ....18104
104 ....18467
936 ....23522
938 ....18467

**31 CFR**

306 ....18062
356 ....18062
357 ....18062
363 ....18062

**Proposed Rules:**

538 ....22339
560 ....22339

**32 CFR**

199 ....23479
311 ....22612, 22613
321 ....22807
322 ....22614, 22615
323 ....22808
701 ....22616
706 ....22322

**Proposed Rules:**

83 ....22848
223 ....22849

**33 CFR**

100 ....22033, 23185
110 ....20524, 21633
117 ....19910, 19911, 20843, 21253, 21636, 23185, 23187, 23188
165 ....18389, 18391, 18394, 18395, 18398, 18869, 19698, 20530, 20532, 20843, 21253, 21637, 22033, 22035, 22809, 22812, 23189, 23485
167 ....23191, 23193

**Proposed Rules:**

100 ....19926, 20595
110 ....20287
165 ....18669, 18672, 18674, 19290, 20287, 21677, 22064, 23227, 23524

**34 CFR**

Ch. II ....23487
600 ....20534
602 ....20534
603 ....20534
668 ....20534
682 ....20534

685 ....20534
686 ....20534
690 ....20534
691 ....20534
**Proposed Rules:**
99 ....19726

**36 CFR**

**Proposed Rules:**
Ch. II ....22058
294 ....21272

**37 CFR**

1 ....18400
**Proposed Rules:**
Ch. I ....22854
1 ....18990
370 ....21833
382 ....21833

**39 CFR**

3020 ....22618
**Proposed Rules:**
3050 ....20906

**40 CFR**

51 ....18870, 23489
52 ....18650, 18870, 18893, 20237, 20239, 20242, 20846, 20850, 20853, 21639, 21807, 22036, 22038, 22814, 22817, 23196, 23489
60 ....18408
62 ....22822
63 ....18064, 22566
75 ....18415, 20536
80 ....18066
85 ....19830
86 ....19830
98 ....22825
112 ....18894, 21652
158 ....22044
161 ....22044
180 ....18895, 18899, 18906, 18915, 19701, 20537, 20542, 22045, 22620, 23490
268 ....18921
271 ....18927
300 ....18066, 20546
1042 ....20550
**Proposed Rules:**
50 ....22665
52 ....19292, 19662, 19739, 20291, 20293, 20296, 20598, 20602, 20906, 20907, 20910, 21682, 21691, 21835
62 ....22861
63 ....21692
122 ....22174
125 ....22174
158 ....21294
168 ....18995
174 ....22067
180 ....19001, 22067
268 ....19003
271 ....19004
281 ....21299
300 ....18136, 20605
355 ....21299

**41 CFR**

300 ....18326
302 ....18326
**Proposed Rules:**
Ch. 50 ....18104
Ch. 60 ....18104
Ch. 61 ....18104
Ch. 109 ....18954
60-250 ....23358
60-300 ....23358

**42 CFR**

5 ....20867
413 ....18930
417 ....21432
422 ....21432
423 ....21432
433 ....21950
**Proposed Rules:**
Ch. I ....20568
5 ....22070
Ch. IV ....20568
424 ....18472
425 ....19528
441 ....21311
Ch. V ....20568

**43 CFR**

2090 ....23198
2800 ....23198
**Proposed Rules:**
2090 ....23230
2800 ....23230

**44 CFR**

64 ....18934, 23498
65 ....18938, 20551, 20553, 20554, 20556, 21660, 21662, 22054
67 ....21664
**Proposed Rules:**
67 ....19005, 19007, 19018, 20606, 21693, 21695, 23528

**45 CFR**

1609 ....23502
2553 ....20243
**Proposed Rules:**
Ch. II ....20568
Ch. III ....20568
Ch. IV ....20568
Ch. X ....20568
Ch. XIII ....20568
1355 ....18677
1356 ....18677
1357 ....18677

**46 CFR**

115 ....19275
170 ....19275
176 ....19275
178 ....19275
520 ....19706
532 ....19706
**Proposed Rules:**
502 ....19022

**47 CFR**

73 ....18415, 18942, 19275, 19276, 20248, 20249
74 ....18942
300 ....18652
**Proposed Rules:**
1 ....18137, 18476, 18490, 18679, 20297, 22340
6 ....20297
7 ....20297
8 ....20297
17 ....18679
22 ....18679
24 ....18679
25 ....18679
27 ....18679
64 ....18490
73 ....18497
80 ....18679
87 ....18679
90 ....18679

**48 CFR**

Ch. 1 ....18304
1 ....18324
2 ....18304
4 ....18304
6 ....18304
13 ....18304
14 ....18304
15 ....18304
18 ....18304
19 ....18304
26 ....18304
33 ....18304
36 ....18304
42 ....18304
52 ....18304
53 ....18072, 18304, 18322
202 ....21809, 21810
204 ....21809
207 ....23504
209 ....21812
212 ....21810
232 ....23505
234 ....21810
252 ....21809, 21812
604 ....20249
637 ....20249
652 ....20249
**Proposed Rules:**
2 ....18497, 23236
3 ....23236
4 ....22070, 23236
7 ....23236
8 ....22070
9 ....23236
11 ....23236
12 ....23236
13 ....23236
14 ....23236
15 ....23236
16 ....23236
17 ....22070
18 ....23236
31 ....18497
32 ....18497
37 ....22070, 23236
42 ....23236
45 ....18497
49 ....18497
52 ....18497, 22070, 23236
53 ....18497, 23236
204 ....21847
212 ....21847
213 ....21849
236 ....21851
245 ....21852
252 ....21847
Ch. 3 ....20568
Ch. 4 ....22058
Ch. 9 ....18954
Ch. 29 ....18104

**49 CFR**

8 ....19707
40 ....18072
213 ....18073
393 ....20867
541 ....20251
571 ....23506
1503 ....22625
**Proposed Rules:**
384 ....19023
385 ....20611
390 ....20611
395 ....20611
544 ....20298
571 ....23254, 23255

**50 CFR**

17 ....18087, 20558
218 ....20257
224 ....20870
226 ....20180
300 ....19708
622 ....18416, 23205
635 ....18417, 18653
648 ....18661, 19276, 23042, 23076, 23206
679 ....18663, 19912, 20890, 22057, 23511
**Proposed Rules:**
10 ....23428
17 ....18138, 18684, 18701, 19304, 20464, 20613, 20911, 20918, 23256, 23265, 23650
20 ....19876
21 ....23428
223 ....20302
224 ....20302
300 ....18706
600 ....22342
622 ....22345
635 ....18504
648 ....18505, 19305, 19929, 22350
660 ....18706, 18709
665 ....19028

## 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*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

**H.R. 4/P.L. 112–9**

Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (Apr. 14, 2011; 125 Stat. 36)

**H.R. 1473/P.L. 112–10**

Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Apr. 15, 2011; 125 Stat. 38)

**Last List April 13, 2011**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

**Note:** This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.