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Title 3—

The President

Proclamation 8695 of July 26, 2011

National Korean War Veterans Armistice Day, 2011

By the President of the United States of America

A Proclamation

On June 25, 1950, the Korean peninsula erupted in conflict, becoming the front line of an intensifying Cold War. For 3 years, our Armed Forces fought to help keep Korea free, suffering bitter reversals and winning stunning victories before the Military Armistice Agreement at Panmunjom secured the border near the 38th parallel. Together, American service members and allied forces were part of a generation that, in the words inscribed at their memorial in Washington, defended ''a country they never knew and a people they never met.'' Today, we express our unending gratitude to all who fought and died in pursuit of freedom and democracy for the Korean peninsula.

Our veterans' courage and sacrifice have enabled the Republic of Korea to flourish as a strong and prosperous nation for over half a century. In the decades following the Armistice, the American and South Korean people have maintained a warm friendship, and our alliance is stronger than ever. We remember our common values and shared suffering during the Korean War, and we continue to work together towards advancing the cause of freedom and stability in East Asia and around the world.

Today, we honor the tens of thousands of service members who gave their last full measure of devotion to protect the people of the Republic of Korea. We also pay tribute to the generations of Americans who have guarded the border since hostilities concluded. It is our sacred duty as a grateful Nation to care for all those who have served, and to provide for our veterans and their families.

We will never forget that America owes its liberty, security, and prosperity to the heroic acts of our service members. We must also remember that their selfless sacrifices have had a profound impact on the promotion of freedom across the globe. On National Korean War Veterans Armistice Day, we recommit to supporting our venerable warriors and their families, and we pay our deepest respects to those who laid down their lives.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 27, 2011, as National Korean War Veterans Armistice Day. I call upon all Americans to observe this day with appropriate ceremonies and activities that honor our distinguished Korean War Veterans.

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

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Federal Register
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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.

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DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AB18

Export Inspection and Weighing Waiver for High Quality Specialty Grain Transported in Containers

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture's (USDA), Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the regulations issued under the United States Grain Standards Act (USGSA) to make permanent a waiver due to expire on July 31, 2012, for high quality specialty grain exported in containers from the mandatory inspection and weighing requirements of the USGSA. GIPSA also has determined that making the export inspection and weighing waiver permanent will advance the objectives of the USGSA.

DATES: Effective August 29, 2011.

FOR FURTHER INFORMATION CONTACT: Thomas C. O'Connor, Director, Quality Assurance & Compliance Division, at his *e-mail address: Thomas.C.Oconnor@usda.gov* or by telephone at (202) 720–8262.

SUPPLEMENTARY INFORMATION:

Background

The USGSA (7 U.S.C. 71–87k) authorizes USDA to waive the mandatory inspection and weighing requirements of the USGSA in circumstances when the objectives of the USGSA would not be impaired. Current waivers from the official inspection and Class X weighing requirements for export grain appear in § 800.18 (7 CFR 800.18) of the regulations issued under the USGSA. These waivers are provided for grain exported for seeding purposes, grain shipped in bond, grain exported by rail or truck to Canada or Mexico, grain not sold by grade, exporters and individual elevator operators shipping less than 15,000 metric tons during the current and preceding calendar years, and when services are not available or in emergency situations.

High quality specialty grain is defined as grain in which all factors exceed the grade limits for U.S. No. 1 grain, except for the factor test weight, or grain designated as ''organic'' as defined in § 205.2 (7 CFR 205.2) of the regulations issued under the Organic Food Productions Act of 1990, as amended (OFPA) (7 U.S.C. 6501–6522). Typically, shippers of high quality specialty grain exported in containers are small entities that up until recently handled less than 15,000 metric tons of grain annually and were exempt from mandatory inspection and weighing requirements in accordance with § 800.18(b) of the USGSA regulations. As the high quality specialty grain market has expanded, the volume of this specialty product has begun to exceed the 15,000 metric ton waiver threshold, making such grain subject to mandatory inspection and weighing under the USGSA.

GIPSA has found that transactions involving high quality specialty grain typically are made between dedicated buyers and sellers who have ongoing business relationships and fully understand each other's specific needs and capabilities. Typically, sales are for grain that meets strict commercial contract specifications for quality, production, handling, and packaging. GIPSA believes that mandating official inspection and weighing services for this specialty market adds an unnecessary cost. The cost of official inspection and weighing for these specialty operations is approximately $1.80 per metric ton compared to an average $0.34 per metric ton for traditional grain exports.

On December 13, 2005, GIPSA published in the **Federal Register** a final rule (70 FR 73556) establishing a 5-year waiver for high quality specialty grain exported in containers in order to relieve the burden of grain exporters having to obtain and pay for mandatory official inspection and weighing services for this emerging niche market. On July 19, 2010, GIPSA published in the **Federal Register** an interim rule that extended the waiver until July 31, 2012, and proposed making the waiver permanent. Based on the comments discussed below, this final rule makes permanent the waiver for high quality specialty grain exported in containers.

Since establishing the waiver in 2005, GIPSA has required that exporters of high quality specialty grain in containers maintain, submit upon request, and make available documentation that fully and correctly discloses their transactions. GIPSA has used this documentation to determine if the high quality specialty grain waiver continues to advance the objectives of the USGSA and to ensure that exporters of high quality specialty grain comply with the waiver provisions: (1) That all factors exceed the grade limits for U.S. No. 1 grain, except for the factor test weight, or (2) Specify ''organic'' as defined by the regulations issued under the OFPA. Under this final rule, GIPSA will continue to collect information from exporters of high quality specialty grain in containers in order to ensure the integrity of the high quality specialty grain program. GIPSA will also require exporters to maintain records generated during their normal course of business that pertain to these shipments and make these documents available to GIPSA upon request for review or copying purposes. These records must be maintained for a period of 3 years. Accordingly, organizations exporting high quality specialty grain will continue to be required to notify GIPSA of their actions for registration purposes in accordance with the USGSA. Moreover, nothing in this permanent waiver will prevent buyers and sellers of high quality specialty grain exported in containers from requesting and receiving official inspection and weighing services should they desire such services.

Since the waiver was implemented, GIPSA has reviewed documentation provided by exporters of high quality specialty grain and has determined that the documentation provided by exporters complied with the waiver provisions. By making this waiver permanent, GIPSA believes that this final rule will provide regulatory relief to a small evolving sector of the grain

industry, while continuing to advance the objectives of the USGSA.

Discussion of Comments and Final Action

On July 19, 2010, GIPSA published an interim rule (75 FR 41693) that extended for 2 years, or until July 31, 2012, and also proposed making the waiver pernment for high quality specialty grain exported in containers that was established from a final rule on December 13, 2005 (70 FR 73556). The interim rule invited interested parties to comment on making this waiver for high quality specialty grain exported in containers permanent. GIPSA received two comments, which are discussed below:

One comment supported the issuance of the interim rule to extend through July 31, 2012, the waiver from mandatory inspection and weighing requirements for high quality specialty grain exported in containers to eliminate uncertainty that otherwise might have occurred. The commenter also supported making the waiver permanent and urged GIPSA to not propose major changes to the mandatory inspection and weighing requirements of the USGSA that would adversely affect the marketing system or current priorities and operations of the agency. Because this commenter agreed that the waiver be made permanent, we are making no changes to this final rule based on the comment.

The second commenter did not support GIPSA making permanent the current waiver for high quality specialty grain exported in containers from the mandatory inspection and weighing requirements and urged GIPSA to extend the waiver for an additional year and review the quality assurance options for rail shipments to Mexico and the impact of this rule change on overseas container shipments. GIPSA does not believe that this rule will impact rail shipments to Mexico or have an adverse impact on overseas container shipments. GIPSA established the waiver to facilitate the marketing of high quality specialty grain by eliminating the burden of obtaining mandatory inspection and weighing requirements for organic and other types of high quality specialty grain. Since the waiver was implemented in 2005, GIPSA has collected data from exporters of high quality specialty grain that verifies that exporters of high quality specialty grain have complied with the waiver provisions and that a permanent waiver will continue to advance the objectives of the USGSA. Moreover, nothing in this final rule will prevent buyers and sellers of high quality specialty grain from requesting and receiving official inspection and weighing services should they desire such services. Therefore, GIPSA is making no change to the final rule based on the comment.

Executive Order 12866 and Effect on Small Entities

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

This final rule would provide regulatory relief to both large and small businesses. The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS).[1] The SBA defines small grain exporters in its regulations (13 CFR 121.201) as entities having less than $7,000,000 in average annual receipts (NAICS code 115114). Small grain exporters that export less than 15,000 metric tons per year are exempt from the mandatory inspection and weighing requirements under § 800.18 of the USGSA regulations (7 CFR 800.18). GIPSA believes that making permanent this waiver would effectively eliminate the cost impact on small grain exporters that would otherwise have to pay for GIPSA's onsite inspection and weighing services without impairing the objectives of the USGSA.

The growing market for high quality specialty grain exported in containers has caused shippers of high quality specialty grain to exceed the 15,000 metric ton waiver threshold for export inspection and weighing. GIPSA has consulted with its Grain Inspection Advisory Committee (Advisory Committee) on this issue. GIPSA's Advisory Committee is composed of members representing grain producers, handlers, processors, and exporters. The Advisory Committee has advocated that GIPSA make permanent the waiver for high quality specialty grain exported in containers from the mandatory inspection and weighing requirements of the USGSA. GIPSA agrees with the Advisory Committee that granting a permanent waiver is consistent with the intent of the USGSA and will allow this market to continue to grow.

This final rule will continue to allow exporters of high quality specialty grain shipped in containers to ship high quality specialty grain without the cost burden of mandatory inspection and weighing, while allowing them to request GIPSA inspection and weighing services when desired. Relieving this cost burden will continue to allow the grain industry to grow and equitably compete with global competitors.

Therefore, pursuant to requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601–612), GIPSA has considered the economic impact of this final rule on small entities and has determined that its provisions would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. The USGSA provides in section 87g (7 U.S.C. 87g) that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the USGSA. Otherwise, this final rule would not preempt any State or local laws, or regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this final rule.

Executive Order 13175

This final rule has been reviewed with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. This rule will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the information collection and recordkeeping included in this final rule were approved by the Office of Management and Budget under Control No. 0580–0022, and will expire on May 31, 2012. This information collection continues to be necessary in order for GIPSA to ensure that exporters of high quality specialty grain shipped in containers comply with the waiver provisions contained in § 800.18 (7 CFR 800.18) of the regulations issued under the USGSA.

E-Government Compliance

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

[1] See: *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

For reasons set out in the preamble, 7 CFR part 800 is amended as follows:

PART 800—GENERAL PROVISIONS

■ 1. The authority citation for Part 800 continues to read as follows:

Authority: 7 U.S.C. 71–87k.

■ 2. In § 800.0, paragraph (b)(44) is revised to read as follows:

§ 800.0 Meaning of terms.

* * * * *

(b) * * *

(44) *High quality specialty grain.* Grain sold under contract terms that specify all factors exceed the grade limits for U.S. No. 1 grain, except for the factor test weight, or specify ''organic'' as defined by 7 CFR part 205.

* * * * *

■ 3. In § 800.18, paragraph (b)(8) is revised to read as follows:

§ 800.18 Waivers of the official inspection and Class X weighing requirements.

* * * * *

(b) * * *

(8) *High quality specialty grain shipped in containers.* Official inspection and weighing requirements do not apply to high quality specialty grain exported in containers. Records generated during the normal course of business that pertain to these shipments must be made available to the Service upon request, for review or copying. These records must be maintained for a period of 3 years.

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2011–19250 Filed 7–28–11; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. CE312; Special Conditions No. 23–252–SC]

Special Conditions: Cessna Aircraft Company, Model LC40–550FG, LC41–550FG, and LC42–550FG; AmSafe Inflatable Three-Point Restraint Safety Belt With an Integrated Airbag Device

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the installation of an inflatable three-point restraint safety belt with an integrated airbag device at the pilot, co-pilot and passenger seats on the Cessna Aircraft Company airplane models LC40–550FG, LC41–550FG, and LC42–550FG. These airplanes, as modified by the installation of these inflatable safety belts, will have novel and unusual design features associated with the upper-torso restraint portions of the three-point safety belts, which contain an integrated airbag device. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is July 21, 2011.

We must receive your comments on or before August 29, 2011.

ADDRESSES: Mail two copies of your comments to: Federal Aviation Administration (FAA), Regional Counsel, ACE–7, Attention: Rules Docket, Docket No. CE312, 901 Locust, Room 506, Kansas City, Missouri 64106. You may deliver two copies to the Regional Counsel at the above address. Mark your comments: Docket No. CE312. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

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

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

Comments Invited

We invite interested persons to submit such written data, views, or arguments, as they desire. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

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

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

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On February 3, 2011, AmSafe, Inc. applied for a Supplemental Type Certificate (STC), for the installation of a three-point safety belt restraint system for the pilot, co-pilot and the passenger seats, each incorporating inflatable airbags, for model LC40–550FG, LC41–550FG, and LC42–550FG airplanes.

The inflatable restraint systems are: Three-point safety belt restraint systems consisting of a lap belt and shoulder harness with an inflatable airbag attached to the lap belt. The inflatable portion of the restraint system will rely on sensors to electronically activate the inflator for deployment.

If an emergency landing occurs, the airbags will inflate and provide a protective cushion between the occupant's head and the structure within the airplane. This will reduce the potential for head and torso injury. The inflatable restraint behaves in a manner similar to an automotive airbag; however, in this case, the airbag is integrated into the lap belt. While airbags and inflatable restraints are standard in the automotive industry, the use of an inflatable restraint system is novel for general aviation operations.

The FAA has determined that this project will be accomplished on the basis of providing the same current level of safety as the conventional certification basis airplane occupant

restraint systems. The FAA has two primary safety concerns with the installation of airbags or inflatable restraints:

• That they perform properly under foreseeable operating conditions; and

• That they do not perform in a manner or at such times as to impede the pilot's ability to maintain control of the airplane or constitute a hazard to the airplane or occupants.

The latter point has the potential to be the more rigorous of the requirements. An unexpected deployment while conducting the takeoff or landing phases of flight may result in an unsafe condition. The unexpected deployment may either startle the pilot or generate a force sufficient to cause a sudden movement of the control yoke. Either action could result in a loss of control of the airplane, the consequences of which are magnified due to the low operating altitudes during these phases of flight. The FAA has considered this when establishing these special conditions.

The inflatable restraint system relies on sensors to electronically activate the inflator for deployment. These sensors could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of an inadvertent deployment must be considered in establishing the reliability of the system. AmSafe, Inc. must show that the effects of an inadvertent deployment in flight are not a hazard to the airplane or that an inadvertent deployment is extremely improbable. In addition, general aviation aircraft are susceptible to a large amount of cumulative wear and tear on a restraint system. The potential for inadvertent deployment may increase as a result of this cumulative damage. Therefore, the impact of wear and tear on inadvertent deployment must be considered. The effect of this cumulative damage means a life limit must be established for the appropriate system components in the restraint system design.

There are additional factors to be considered to minimize the chances of inadvertent deployment. General aviation airplanes are exposed to a unique operating environment, since the same airplane may be used by both experienced and student pilots. The effect of this environment on inadvertent deployment must be understood. Therefore, qualification testing of the firing hardware/software must consider the following:

• The airplane vibration levels appropriate for a general aviation airplane; and

• The inertial loads that result from typical flight or ground maneuvers, including gusts and hard landings.

Any tendency for the firing mechanism to activate as a result of these loads or acceleration levels is unacceptable.

Other influences on inadvertent deployment include high intensity electromagnetic fields (HIRF) and lightning. Since the sensors that trigger deployment are electronic, they must be protected from the effects of these threats. To comply with HIRF and lightning requirements, the AmSafe, Inc. inflatable restraint system is considered a critical system, since its inadvertent deployment could have a hazardous effect on the airplane.

Given the level of safety of the occupant restraints currently installed, the inflatable restraint system must show that it will offer an equivalent level of protection for an emergency landing. If an inadvertent deployment occurs, the restraint must still be at least as strong as a Technical Standard Order approved belt and shoulder harnesses. There is no requirement for the inflatable portion of the restraint to offer protection during multiple impacts, where more than one impact would require protection.

The inflatable restraint system must deploy and provide protection for each occupant under an emergency landing condition. The seats of LC40–550FG, LC41–550FG, and LC42–550FG model airplanes are certificated to the structural requirements of § 23.562; therefore, the test emergency landing pulses identified in § 23.562 must be used to satisfy this requirement.

A wide range of occupants may use the inflatable restraint; therefore, the protection offered by this restraint should be effective for occupants that range from the fifth percentile female to the ninety-fifth percentile male. Energy absorption must be performed in a consistent manner for this occupant range.

In support of this operational capability, there must be a means to verify the integrity of this system before each flight. AmSafe, Inc. must establish inspection intervals where they have demonstrated the system to be reliable between these intervals.

An inflatable restraint may be ''armed'' even though no occupant is using the seat. While there will be means to verify the integrity of the system before flight, it is also prudent to require unoccupied seats with active restraints not constitute a hazard to any occupant. This will protect any individual performing maintenance inside the cockpit while the aircraft is on the ground. The restraint must also provide suitable visual warnings that would alert rescue personnel to the presence of an inflatable restraint system.

In addition, the design must prevent the inflatable seatbelt from being incorrectly buckled and/or installed such that the airbag would not properly deploy. AmSafe, Inc. must show that such deployment is not hazardous to the occupant and will still provide the required protection.

The cabins of the Cessna model airplanes identified in these special conditions are confined areas, and the FAA is concerned that noxious gasses may accumulate if the airbag deploys. When deployment occurs, either by design or inadvertently, there must not be a release of hazardous quantities of gas or particulate matter into the cockpit.

An inflatable restraint must not increase the risk already associated with fire. Therefore, the inflatable restraint must be protected from the effects of fire to avoid creating an additional hazard by, for example, a rupture of the inflator.

Finally, the airbag is likely to have a large volume displacement, and possibly impede the egress of an occupant. Since the bag deflates to absorb energy, it is likely that the inflatable restraint would be deflated at the time an occupant would attempt egress. However, it is appropriate to specify a time interval after which the inflatable restraint may not impede rapid egress. Ten seconds has been chosen as reasonable time. This time limit will offer a level of protection throughout the impact event.

Type Certification Basis

Under the provisions of § 21.101, AmSafe, Inc. must show that the LC40–550FG, LC41–550FG, and LC42–550FG model airplanes continue to meet the applicable provisions of the applicable regulations in effect on the date of application for the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The following model is covered by this special condition:

Cessna Aircraft Company Models LC40–550FG, LC41–550FG, and LC42–550FG

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

If the Administrator determines that the applicable airworthiness regulations (i.e., part 23 as amended) do not contain adequate or appropriate safety standards for the AmSafe, Inc., inflatable restraint as installed on these Cessna Aircraft Company models because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

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

Novel or Unusual Design Features

The Cessna Aircraft Company LC40–550FG, LC41–550FG, and LC42–550FG model airplanes will incorporate the following novel or unusual design feature: A three-point safety belt restraint system incorporating an inflatable airbag for the pilot, co-pilot, and passenger seats.

The purpose of the airbag is to reduce the potential for injury in the event of an accident. In a severe impact, an airbag will deploy from the lap belt. The airbag will deploy between the head of the occupant and airplane interior structure, which will provide some protection to the head of the occupant. The restraint will rely on sensors to electronically activate the inflator for deployment.

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

Accordingly, these special conditions are adopted for the Cessna Aircraft Company LC40–550FG, LC41–550FG, and LC42–550FG model airplanes equipped with three-point inflatable restraints. Other conditions may be developed, as needed, based on further FAA review and discussions with the manufacturer and civil aviation authorities.

Applicability

As discussed above, these special conditions are applicable to the Cessna Aircraft Company, LC40–550FG, LC41–550FG, and LC42–550FG model airplanes equipped with the three or four-point inflatable restraint systems.

Conclusion

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

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, the substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the delivery of the airplane(s), the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

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

The Special Conditions

The FAA has determined that this project will be accomplished on the basis of not lowering the current level of safety of the Cessna Aircraft Company LC40–550FG, LC41–550FG, and LC42–550FG model occupant restraint systems. Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for this model.

Inflatable Three-Point Restraint Safety Belt With an Integrated Airbag Device on the Pilot, Co-Pilot, and Passenger Seats of the Cessna Aircraft Company LC40–550FG, LC41–550FG, and LC42–550FG Model Airplanes

1. It must be shown that the inflatable restraint will deploy and provide protection under emergency landing conditions. Compliance will be demonstrated using the dynamic test condition specified in 14 CFR, part 23, § 23.562(b)(2). It is not necessary to account for floor warpage, as required by § 23.562(b)(3), or vertical dynamic loads, as required by § 23.562(b)(1). The means of protection must take into consideration a range of stature from a 5th percentile female to a 95th percentile male. The inflatable restraint must provide a consistent approach to energy absorption throughout that range.

2. Unoccupied seats that have an active restraint must not constitute a hazard to any occupant.

3. The design must prevent the inflatable restraint from being incorrectly buckled and/or incorrectly installed such that the airbag would not properly deploy. Alternatively, it must be shown that such deployment is not hazardous to the occupant and will provide the required protection.

4. It must be shown that the inflatable restraint system is not susceptible to inadvertent deployment as a result of wear and tear or the inertial loads resulting from in-flight or ground maneuvers (including gusts and hard landings) that are likely to be experienced in service.

5. It must be extremely improbable for an inadvertent deployment of the restraint system to occur, or an inadvertent deployment must not impede the pilot's ability to maintain control of the airplane or cause an unsafe condition (or hazard to the airplane). In addition, a deployed inflatable restraint must be at least as strong as a Technical Standard Order (C114) certificated belt and shoulder harness.

6. It must be shown that deployment of the inflatable restraint system is not hazardous to the occupant or will not result in injuries that could impede rapid egress. This assessment must include occupants whose restraint is loosely fastened.

7. It must be shown that an inadvertent deployment that could cause injury to a standing or sitting person is improbable. In addition, the restraint must also provide suitable visual warnings that would alert rescue

personnel to the presence of an inflatable restraint system.

8. It must be shown that the inflatable restraint will not impede rapid egress of the occupants 10 seconds after its deployment.

9. To comply with HIRF and lightning requirements, the inflatable restraint system is considered a critical system since its deployment could have a hazardous effect on the airplane.

10. It must be shown that the inflatable restraints will not release hazardous quantities of gas or particulate matter into the cabin.

11. The inflatable restraint system installation must be protected from the effects of fire such that no hazard to occupants will result.

12. There must be a means to verify the integrity of the inflatable restraint activation system before each flight or it must be demonstrated to reliably operate between inspection intervals.

13. A life limit must be established for appropriate system components.

14. Qualification testing of the internal firing mechanism must be performed at vibration levels appropriate for a general aviation airplane.

Issued in Kansas City, Missouri, on July 21, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–19157 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 102

Rules of Origin

CFR Correction

In Title 19 of the Code of Federal Regulations, Parts 0 to 140, revised as of April 1, 2011, on page 578, in § 102.20, in the table, the second entry for 8708.99 is removed.

[FR Doc. 2011–19372 Filed 7–28–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

[Docket No. FDA–2010–N–0002]

Advisory Committee; Medical Imaging Drugs Advisory Committee; Re-Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the re-establishment of the Medical Imaging Drugs Advisory Committee in FDA's Center for Drug Evaluation and Research. This rule amends the current language for the Medical Imaging Drugs Advisory Committee in the Agency's list of standing advisory committees in FDA's regulations.

DATES: *Effective date:* This rule is effective August 5, 2011. *Applicability date:* Authority for the committee being established will end on May 18, 2013, unless the Commissioner of Food and Drugs (the Commissioner) formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Minh Doan, Center for Drug Evaluation and Research, Food and Drug Administration, Division of Advisory Committee and Consultant Management, Bldg. 31, rm. 2417, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–9001, *Fax:* 301–847–8533 or *e-mail: MIDAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463 (5 U.S.C. app.2)); section 1004 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 394); and 21 CFR 14.40(b), FDA is announcing the establishment of the Medical Imaging Drugs Advisory Committee by the Commissioner. The Committee advises the Commissioner and designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which the Food and Drug Administration has regulatory responsibility. The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology and makes appropriate recommendations to the Commissioner.

The Medical Imaging Drugs Advisory Committee will be composed of a core of 12 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of nuclear medicine, radiology, epidemiology or statistics, and related specialties. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Elsewhere in this issue of the **Federal Register**, FDA is publishing notices requesting nominations for membership of members as well as a consumer and industry representative on this committee.

Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the agency finds good cause to dispense with notice and public comment procedures and to proceed to an immediate effective date on this rule. Notice and public comment and a delayed effective date are unnecessary and are not in the public interest as this final rule merely adds the name of the Medical Imaging Drugs Advisory Committee, already established by charter, to the list of standing advisory committees in 21 CFR 14.100.

Therefore the Agency is amending 21 CFR 14.100(a) as set forth below.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

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

Authority: 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155.

■ 2. Section 14.100 is amended by revising paragraph (c)(15) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) * * *

(15) *Medical Imaging Drugs Advisory Committee.*

(i) Date established: May 18, 2011.

(ii) Function: Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

* * * * *

Dated: July 22, 2011.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2011–19064 Filed 7–28–11; 8:45 am]

BILLING CODE 4160–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4011

RIN 1212–AB12

Disclosure to Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule removes PBGC's regulation on Disclosure to Participants. The regulation is obsolete as a result of the Pension Protection Act of 2006. Prior to the effective date of the statutory change, section 4011 of ERISA required certain underfunded plans to notify participants of plan funding status and the limits on the Pension Benefit Guaranty Corporation's guarantee. The Pension Protection Act of 2006 repealed section 4011 for plan years beginning after 2006 and replaced the disclosure requirement under that section with a disclosure requirement under Title I of ERISA. This rule is consistent with Executive Order 13563 on Improving Regulation and Regulatory Review.

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@pbgc.gov*), Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4011 of ERISA requires certain underfunded plans to give an annual notice to participants of plan funding status and the limits on PBGC's guarantee. PBGC's implementing regulations are at 29 CFR part 4011.

Section 501 of the Pension Protection Act of 2006, Public Law 109–280 (2006), repealed section 4011 of ERISA for plan years beginning after 2006 and replaced the disclosure requirement under that section with a disclosure requirement under Title I of ERISA (under the jurisdiction of the Department of Labor). On January 22, 2007 (at 72 FR 2615), PBGC amended its regulation part 4011 to reflect that statutory change.

Executive Order 13563 on Improving Regulation and Regulatory Review, among other requirements, directs agencies to periodically review regulations to remove those that are obsolete. As a result of that review, PBGC is issuing this final rule to remove part 4011 from its regulations.

Because this rule simply removes an obsolete regulation as a result of a statutory change, PBGC has determined that notice and public comment on this amendment are unnecessary. Further, for this same reason, PBGC finds good cause for making this final rule effective immediately.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866. Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

PART 4011—[REMOVED]

■ For the reasons given above, and under the authority of 29 U.S.C. 1311, PBGC amends 29 CFR Chapter XL by removing part 4011.

Issued in Washington, DC, this 25th day of July 2011.

Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2011–19182 Filed 7–28–11; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Parts 1010 and 1022

RIN 1506–AB07

Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is issuing this final rule to amend the Bank Secrecy Act (''BSA'') regulations applicable to Money Services Businesses (''MSB'') with regard to stored value. More specifically, this final rule amends the regulations by: renaming ''stored value'' as ''prepaid access'' and defining that term; deleting the terms ''issuer'' and ''redeemer'' of stored value; imposing suspicious activity reporting, customer information and transaction information recordkeeping requirements on both providers and sellers of prepaid access, and, additionally, a registration requirement on providers only; and exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements. These changes address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last twelve years and their increasing use as an accepted payment method.

DATES: *Effective Date:* This rule is effective September 27, 2011.

Compliance Date: The compliance date for 31 CFR 1022.380 is January 29, 2012.

FOR FURTHER INFORMATION CONTACT: FinCEN, Regulatory Policy and Programs Division at (800) 949–2732 and select Option 1.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

A. In General

The BSA, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b and 1951–1959, and 31 U.S.C. 5311–5314 and 5316–5332, authorizes the Secretary of the Treasury (the ''Secretary'') to issue regulations requiring financial institutions to keep records and file reports that the Secretary determines ''have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence matters, including analysis to protect against international

terrorism.'' [1] The Secretary's authority to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.[2] FinCEN has interpreted the BSA through implementing regulations (''BSA regulations'' or ''BSA rules'') that appear at 31 CFR Chapter X.[3]

FinCEN has defined the BSA term ''financial institution'' to include a ''money services business,'' [4] (''MSB'') a category that includes: a dealer in foreign exchange; a check casher; an issuer, seller, or redeemer of traveler's checks, money orders, or stored value; and money transmitter.[5] FinCEN is authorized to deem any business engaged in an activity determined by regulation to be an activity similar to, related to, or a substitute for these activities a ''financial institution.'' [6]

FinCEN has issued regulations implementing the recordkeeping, reporting, and other requirements of the BSA. MSBs are required with some exceptions to: (1) Establish written anti-money laundering (AML) programs that are reasonably designed to prevent the MSB from being used to facilitate money laundering and the financing of terrorist activities; [7] (2) file Currency Transaction Reports (''CTRs'') [8] and Suspicious Activity Reports (''SARs''); [9] and (3) maintain certain records, including records relating to the purchase of certain monetary instruments with currency,[10] relating to transactions by dealers in foreign exchange,[11] and relating to certain transmittals of funds.[12] Most types of MSBs are required to register with FinCEN.[13]

On May 22, 2009, the President signed the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 (''CARD Act'').[14] Section 503 of the CARD Act required the issuance of ''regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.'' [15] Pursuant to the BSA and the CARD Act, FinCEN published the Notice of Proposed Rulemaking Definitions and Other Regulations Relating to Prepaid Access on June 28, 2010 (''NPRM'').[16]

B. Prior Regulation of Stored Value

In 1999, when FinCEN issued its final MSB rule,[17] it deferred certain requirements for stored value based on its complexity and the desire to avoid unintended consequences with respect to an industry then in its infancy. Therefore, unlike most other categories of MSB, an issuer, seller, or redeemer of stored value was not required to register as an MSB with FinCEN or to file SARs. An issuer, seller or redeemer of stored value, as defined by our regulations, was required to file CTRs [18] and to establish a written AML program, including policies, procedures, and internal controls commensurate with its activities and reasonably designed to prevent it from being used to facilitate money laundering and the financing of terrorist activities.[19]

In a 2009 notice of proposed rulemaking generally addressing the MSB definition,[20] we proposed folding all regulated entities dealing with stored value into one category so that *issuers* of stored value and *sellers or redeemers* of stored value would be in the same category. In that rulemaking, FinCEN did not propose making any substantive changes to the definition of this category, reserving those changes for the rulemaking specifically focused on prepaid access.

II. Notice of Proposed Rulemaking

A. General Considerations

FinCEN's proposed rule on the regulation of prepaid access marked the agency's effort to establish a more comprehensive regulatory regime over an industry in which technological advances had outpaced existing regulation. Previously regulated to a lesser degree than its MSB counterparts, prepaid access (formerly ''stored value'') is becoming increasingly pervasive in American commerce, far more so than in the late 1990s when the original MSB categories were established and accompanying regulations were drafted. We believe that the prepaid access market has matured and now warrants, at a minimum, commensurate regulation with other MSBs.

In the NPRM, we sought to regulate this industry with an approach and terminology that acknowledged its unique characteristics, in that it inhabits both the physical, tangible dimension (cards, key fobs, tokens), yet appears to exhibit increasing migration to the Internet space (e-retailers and social networking sites). Increasingly, other technology developments, such as smartphones, are being employed for tendering and receiving payment, by both individuals and merchants. These technological innovations are being widely embraced by the American consumer, particularly among the younger demographic.

The growth of prepaid access in the marketplace continues to flourish. The most recent Federal Reserve Payments Study [21] noted that, of all forms of noncash payment methods included in its research, prepaid card usage was the fastest growing segment. On average, the number of prepaid card transactions increased 21.5 percent per year from 2006 to 2009, and the value of prepaid transactions increased 22.4 percent per year. Private label (commonly known as ''gift cards'') was the most used type of prepaid card, with 2.7 billion transactions in 2009.[22] A 2005 American Bankers Association study revealed that consumers prefer both giving and receiving retailer-specific gift cards instead of cash, as they are considered more personal and valued by the recipient.[23] Based on the above, the American public has not just accepted

[1] 31 U.S.C. 5311.

[2] *See* Treasury Order 180–01 (Sept. 26, 2002).

[3] On October 26, 2010, FinCEN issued a final rule creating a new Chapter X in title 31 of the Code of Federal Regulations for the BSA regulations. *See* 75 FR 65806 (October 26, 2010) (Transfer and Reorganization of Bank Secrecy Act Regulations Final Rule) (referred to herein as the ''Chapter X Final Rule''). The Chapter X Final Rule became effective on March 1, 2011. Because the Notice of Proposed Rulemaking, Definitions and Other Regulations Relating to Money Services Businesses, 74 FR 22129 (May 12, 2009), was issued before the Chapter X Final Rule became effective, it was proposed in the 31 CFR part 103 format. In this Final Rule, for ease of reference and where appropriate, we have included the former 31 CFR part 103 citation after the 31 CFR chapter X regulatory citation.

[4] ''MSB'' is a term FinCEN created that refers to certain non-bank financial institutions that offer specific services (often in combination) and are without a Federal functional regulator.

[5] 31 CFR 1010.100(ff) implementing 31 U.S.C. 5312(a)(2)(J), (K), (R) and (V).

[6] 31 U.S.C. 5312(a)(2)(Y).

[7] *See* 31 CFR 1022.210.

[8] *See* 31 CFR 1010.311.

[9] *See* 31 CFR 1022.320. Check cashers and transactions solely involving the issuance, sale or redemption of stored value are not covered by the SAR requirement. *See* 31 CFR 1022.320(a)(1) and (a)(5).

[10] *See* 31 CFR 1010.415.

[11] *See* 31 CFR 1022.410

[12] *See* 31 CFR 1010.410(e)–(f).

[13] *See* 31 CFR 1022.380.

[14] Public Law 111–24 (May 22, 2009), 123 Stat. 1734.

[15] *Id.,* Sec. 503(a), (c).

[16] 75 FR 36589.

[17] Definitions Relating to, and Registration of, Money Services Businesses, 64 FR 45438 (Aug. 20, 1999).

[18] 31 CFR 1010.311.

[19] 31 CFR 1022.210.

[20] *See* Definitions and Other Regulations Relating to Money Services Businesses, 74 FR 22129 (May 12, 2009).

[21] The 2010 Federal Reserve Payments Study—Noncash Payment Trends in the United States: 2006–2009, pg. 6. *http://www.frbservices.org/files/communications/pdf/press/2010_payments_study.pdf.*

[22] *See id.* at 17.

[23] 2005/2006 Study of Consumer Payment Preferences, published October 2005.

prepaid access; it often prefers it to other types of payment methods.

B. Reconciling Varied Stakeholder Positions

Our NPRM addressing prepaid access proposed comprehensive regulation of stored value, addressing the needs of law enforcement, the financial services industry, and the general public. From FinCEN's law enforcement stakeholders, we have heard that prepaid access has been implicated in a number of criminal enterprises, for example, involving border smuggling of blank card stock. Law enforcement generally has expressed the need for strict regulation of prepaid access, in some cases extending beyond existing requirements for other MSBs. Law enforcement's concern comes in part due to the ease with which prepaid access can be obtained, the high velocity of money that potentially can be moved with prepaid access, and the anonymous use of some, primarily closed loop, prepaid access. While we seek to empower law enforcement with the necessary information to perform its mission, we also seek to balance the many legitimate uses and societal benefits offered by prepaid access.

The prepaid industry and other financial services member stakeholders have an interest in delivering payment options to the general public that have proven popular and are increasing in demand. Other stakeholders, such as transit systems, university and academic environments, and even segments of the Federal government are also among those finding that prepaid access is an attractive, cost-effective method to transact business.

In the following, we will discuss the principal issues surfaced by the public comments received in response to our NPRM, and how we have resolved the issues in the final rule. In total, we received 76 comment letters, representing viewpoints from depository institutions, prepaid access program managers, service providers, industry trade associations, retailers, state and Federal government agencies, private individuals and others. As varied were the sources, so were the opinions offered. We have carefully read, catalogued and analyzed the information provided to us and have used it to inform our final decisions.

C. The Definition of ''Provider of Prepaid Access''

In the NPRM we sought to define the provider of a prepaid access program consistently with the other categories of MSBs.[24] To that end, we expressly stated that the provider would be determined by the ''facts and circumstances'' surrounding the activities in which the party engaged. To aid the reader, we also offered a list of five activities that we believed would generally be descriptive of the provider role while cautioning that no single act or duty alone would be determinative. The ''facts and circumstances'' standard would employ a totality approach.

Consistency with wording in other MSB regulations, while important, was not our only reason for this approach. We believed that prepaid programs, although many and varied in their purposes and operation, would always involve a central entity that would meet the definition of a provider, according to the factors and activities that we delineated.

1. Comments on the Definition

The commenting public, to a degree, agreed that our five elements were fundamental aspects of any prepaid program; but, in general, they strongly disagreed that one entity would always, or even primarily, be responsible for these duties. They asserted that the duties were typically allocated among several entities, and that the various activities might circulate from one participant to another at various points throughout the development of a prepaid program. FinCEN received approximately 26 letters commenting on these issues.[25]

Another objection, offered by 16 commenters, was the lack of an MSB-entity in the prepaid transaction chain that could accurately meet the definitional test of a provider as defined in the NPRM. Instead, these comments explained, the various duties and the ''centrality'' concept would lead directly to the issuing bank[26] in most cases. Although all of these commenting parties agreed that the appropriate regulatory focus should be on the depository institution, they differed with respect to their preferred alternative regulatory approaches. Some stated that banks are already sufficiently regulated; while others argued for additional regulatory constraints on banks involved in the prepaid access business. Of these 16 letters, four were submitted by prepaid access-issuing banks themselves.[27]

2. Determining the Provider by Agreement

The body of opinions addressing how to identify the correct party as the provider was quite varied, but a single common recommendation surfaced among many of the commenters: the best solution, both for clarity among the participants in the prepaid program and for simplicity in administration, would be to allow a contractual determination among the participants as to who would serve as the provider (''the agreement approach''). Commenters were nearly unanimous in the belief that only this approach allowed for a clear allocation of duties that would benefit the operation of the program, as well as regulators and law enforcement authorities. The ability to clearly identify the provider by the mutually-determined decision, along with the requisite submission to FinCEN of MSB registration materials, would offer instant identification of the principal entity in the transaction. FinCEN is finalizing the rule with the agreement approach.

Under the agreement approach, the provider will serve as the principal conduit of information for the other members of the program, thereby simplifying the production and strengthening the integrity of required reports and recordkeeping. The provider will accept and manage the flow of information generated by all of the program participants in such a way as to comply with regulatory requirements. The decisions regarding what processes or methodologies are established to accomplish this objective are best left to the program participants; the provider

[24] *See* 31 CFR 1010.100(ff)(5)(ii).

[25] Many of the comment letters we received were critical of our initial provider definition. The approach that we used, outlining criteria that we believed were generally descriptive of the provider role, was criticized by several industry members and some state regulatory officials as too indefinite and ambiguous. Other commenters made the point that often it is only the issuing bank that meets the definitional test of a provider under our criteria. Many commenters advocated allowing the participants to allocate responsibilities by agreement. Other commenters preferred some form of bright-line test rather than the facts and circumstances approach that FinCEN proposed.

[26] By virtue of the regulatory definition of a money services business, neither a bank nor any other participants in the bank-centered prepaid program would be required to register with FinCEN.

[27] Banks currently serving in a role that could otherwise fit the definition of a provider of prepaid access are not subject to this rule because FinCEN has excluded banks from its definition of MSB. *See* 31 CFR 1010.100(d), (ff). However, banks are subject to distinct FinCEN rules implementing the BSA with respect to their products and services generally. Additionally, banks are subject to regulation by the Federal banking agencies (''FBAs'') and, as such, must comply with the appropriate provisions of Title 12 of the CFR. FinCEN and the FBAs have issued examination guidance directed specifically at banks involved in the operation of a prepaid program. This guidance may be found at: *http://www.ffiec.gov/bsa_aml_infobase/pages_manual/OLM_061.htm,* specifically pages 234–238, entitled ''Electronic Cash—Overview.''

simply must have the ability to amass the appropriate information with dispatch.

We understand that prepaid transactions often involve more parties and sub-parties than might be typical of routine debit or credit card transactions and, for this reason, the information generated by the sale and use of prepaid access is often more dispersed. But because the information needs of law enforcement often necessitate speed and efficiency for successful criminal investigation and prosecution, requiring the separate pursuit of various records or documents all along the points of the transaction chain would be inefficient and inevitably lead to lost opportunities. Having the provider serve as the central source of information should help to minimize the inefficiency and allow for those most knowledgeable about how the business operates to make this fundamental business decision.

3. Retaining the NPRM Provider Criteria

As we have discussed, the final rule adopts the agreement approach, and we begin our regulatory text by stating that the participants within a prepaid program must determine a single participant to be the provider of prepaid access. A determination among the program participants, communicated through the appropriate filing of an MSB registration with FinCEN, will identify the participant subject to regulatory obligations as the provider.

We noted previously, however, that there is rapid growth and innovation in many segments of the payments industry and such is certainly the case with prepaid access. We believe that our regulations should anticipate, to the degree possible, situations where the program participants fail to come to an agreement.

In the NPRM, we listed five criteria pertaining to the oversight and control necessary to be deemed a provider of prepaid access. While we heard objections to this list of factors when it was published as the determinative criteria in the NPRM, we have chosen to retain the language in the final rule as illustrative of the analytical factors that would be useful in determining the provider. We note that while the commenters took issue with the application of our list of criteria to a single entity, they offered positive observations on the accuracy and utility of the list. Commenters stated that the factors were appropriate and helpful and demonstrated FinCEN's understanding of the complexities of the ways in which prepaid programs function.

We understand that it would be unlikely to find all of these characteristics present in a single entity in the prepaid program; however, it may be helpful to weigh and assess the totality of the factors against the characteristics of the various program participants in reaching a regulatory determination of the provider. The list of factors is by no means exhaustive. We retain them within the regulatory text, however, to demonstrate that FinCEN will use these factors to make a provider determination in instances where a provider of prepaid access has failed to register.

D. Sellers of Prepaid Access

In the NPRM, FinCEN proposed to regulate sellers of prepaid access as a separate category of MSB. Specifically, the NPRM proposed to require sellers to: (1) Develop and implement an effective AML program; (2) report suspicious activity; and (3) comply with recordkeeping requirements related to customer identifying information and transactional data. The NPRM did not include a registration requirement for sellers of prepaid access. The NPRM did, however, raise the possibility of an additional limitation to the definition of a seller of prepaid access, which would cover only those entities that sold prepaid products (including products not covered under the regulatory definition of prepaid program) in an amount over $1,000 to any person on any day in one or more transactions.

The rationale behind covering sellers of prepaid access under the BSA was based on the unique role played by sellers in the prepaid transaction chain. Typically, sellers of prepaid access are general purpose retailers such as pharmacies, convenience stores, supermarkets, discount stores or any of a number of other types of businesses offering a full spectrum of products. Sellers of prepaid access generally have face-to-face contact with consumers at the point of sale and, thus, they are in the best position to collect customer identifying information. As a general matter, AML program requirements applicable to a range of financial institutions can play an important role in mitigating risks involved in certain face-to-face transactions as they relate to the ''placement'' stage of money laundering.

In response to the NPRM, FinCEN received 45 comment letters that addressed the proposal to regulate sellers of prepaid access. These letters were primarily from companies whose business operations include some aspect of providing or selling prepaid access, including individual retailers, issuing banks, prepaid program managers, prepaid card networks, payment processors, other service providers, trade groups and other associations. Most of these commenters opposed any direct regulation of sellers of prepaid access. Some commenters questioned whether the Internal Revenue Service (IRS), the current delegated examiner for MSBs, has the resources to adequately examine and enforce such rules, and whether the information collected by sellers of prepaid access would be useful to law enforcement. Other commenters expressed concerns that implementation of the proposed rule would result in: high compliance costs; customer service challenges; privacy and data security issues; conflicts with state laws; and stigmatization of the unbanked and underbanked population.

None of these comments challenge the underlying rationale behind regulating sellers of prepaid access. Although, as some commenters pointed out, prepaid access devices and vehicles may be sold in convenience stores, pharmacies and other retail establishments alongside non-financial products, prepaid access is fundamentally different than non-financial products and services. It would be an unacceptable loophole in the BSA rules if prepaid access could be bought and sold without adequate oversight. Because prepaid access is essentially a financial service that provides consumers with access to the financial system, it should be subject to an appropriate level of regulation to prevent its misuse.

Based on this underlying rationale, FinCEN continues to consider it appropriate to regulate sellers of prepaid access as a type of MSB. However, FinCEN has decided to make certain changes to the rule with respect to sellers of prepaid access, balancing the concerns expressed in the comment letters with the legitimate need to mitigate money laundering risks and provide law enforcement with the information and investigatory tools necessary to prevent the use of prepaid access for money laundering, terrorist financing and other criminal purposes. FinCEN has adopted a targeted approach to regulating sellers of prepaid access, focusing on the sale of prepaid access whose inherent features or high dollar amounts pose heightened money laundering risks.

E. Prepaid Programs and Exclusions

1. In General

The NPRM defined a prepaid program broadly as ''an arrangement under which one or more persons acting together provide(s) a particular form of

prepaid access.'' The NPRM excluded from the definition of prepaid program five types of arrangements because they are typically low-risk. However, the NPRM also identified three high-risk factors that would negate any exclusion.

Comments tended to focus on the various exclusions from the core definition of ''prepaid program'' rather than on the core definition itself. Many public comments received in response to the various exclusions from the definition of a prepaid program argued for a more liberal, expansive reading of the relevant exclusions. Some commenters asserted that the exclusions were appropriate carve-outs, but that they did not go far enough. Other commenters expressed concerns about the effect of the three limits to the exclusions: international use, person-to-person transfers, and re-loads from a non-depository source other than for closed loop prepaid access. These limits to the exclusions, many commenters asserted, undercut the efficacy of the exclusions and would effectively render them meaningless. Only a handful of commenters chose not to address the program exclusions at all.

We revised the rule in an effort to reconcile the need to make the exclusions as precise as possible with limiting any possible risks or vulnerabilities. The final rule differs from the NPRM with a new framework to more effectively achieve our goal of targeting those arrangements that present a realistic risk of being used for money laundering, terrorist financing, or other illicit activities.

2. Closed Loop Prepaid Access

We heard from a broad range of American retailers, including lines of business as diverse as amusement parks, restaurants, and Internet software sales, commenting that our inclusion of closed loop prepaid access was an unwelcome departure from long-standing FinCEN policy. For a number of years, FinCEN has held that closed loop gift certificates and gift cards were not included within the regulatory interpretation of stored value.[28]

Many commenters asserted that the inclusion of any closed loop prepaid access as a type of prepaid program was unnecessary. They explained that closed loop prepaid access offers very limited criminal or money laundering opportunities given that, by its nature, it only allows use within a narrowly-defined universe of entities, such as a specific retailer, a retail chain (including franchisees), a shopping center, or a group of retailers linked by common ownership, corporate affiliation or geographic proximity. In all of these instances, the prepaid access is ''closed'' to any other retailers which are not part of the specifically identified group of retailers. In addition, many of these commenters noted that closed loop prepaid access involved relatively low dollar amounts, most commonly issued in denominations of $500 or less. Such low dollar limits and the inability, except under rare, *de minimis* situations,[29] to convert closed loop prepaid access to cash make it an inefficient, cumbersome tool for use by money launderers.

In the NPRM, we explained that there were attributes potentially associated with closed loop prepaid access that raised its risk level. We treated these potential attributes in two of the proposed ''limits to the exclusions.''[30] Based on information provided by law enforcement, we were concerned that closed loop prepaid access, when used internationally or with the ability to transfer value from person-to-person, heightened its money laundering vulnerability considerably. We asked specific questions in the NPRM on this topic, and we received a great many responses. A total of 45 comment letters were received referencing closed loop prepaid access.

Some commenters provided very comprehensive, thoughtful responses in which they offered data and statistics about how their products operate and the reasons they view them as inapplicable to this rulemaking. The most frequent and strongly asserted statement was the limited dollar/limited scope of closed loop prepaid access. Even in a forum such as a shopping mall or a university campus, closed loop prepaid access offers the consumer only goods or services.

For some retailers, such as coffee vendors or fast food restaurants, convenience was the reason for offering closed loop prepaid access. The product array they offer is often limited to items retailing for just a few dollars, with conservative caps set on the maximum value available on the closed loop prepaid access they offer. They asserted that their closed loop prepaid access served consumers' needs when making repeat, low-dollar ticket purchases when the only other option would be cash; and it worked to the merchants' advantage for speedy transactions as well as encouraging repeat business and more liberal ''spend per ticket.''

Other retail segments, such as furniture sellers, pointed out that closed loop prepaid access was used as a form of voucher in situations where a big-ticket item was returned, and that the limitations established in the NPRM were unworkable. Rather than returning cash in amounts of several hundred or thousand dollars, often exceeding the amount of cash maintained on hand, the merchant wanted the option to provide closed loop prepaid access as an accommodation to the customer and a convenience to the merchant itself. The furniture retailer was assured of repeat business and the customer was not burdened with the prospect of theft or loss of a large sum of cash. We believe that, for this segment of the closed loop prepaid access market whose inventory is comprised of mostly high-dollar merchandise, we have drawn a suitable compromise. As discussed below, FinCEN revised the threshold of closed loop in the final rule. Closed loop prepaid access sold in amounts of $2,000 or less is exempted, which will accommodate this practice of returns.

Based on comments received in response to the NPRM specifically with regard to closed loop prepaid access, FinCEN understands that a requirement to collect customer identifying information may necessitate changes in the way that businesses escheat funds to states if those funds are not claimed by their owners, depending on the differences between escheat laws for funds belonging to identifiable persons and for anonymous funds. As discussed herein, the final rule significantly limits the scope of closed loop prepaid access covered under the definition of a prepaid program. Accordingly, the final rule should have minimal effects, if any, on businesses in connection with state escheat laws.

The most common theme underlying the varying objections in the comment letters was that closed loop prepaid access products were used by retailers to pre-sell goods and services, not to serve as a medium through which the funds paid can later be recovered in the form of cash. If an individual is seeking to launder funds, closed loop prepaid access is a cumbersome and ineffective method to accomplish such; funds placed in closed loop prepaid access do not offer withdrawal or transfer options. Retailers commented that a closed loop gift card that is redeemed for cash rather

[28] ''FinCEN does not currently interpret the definition of stored value to include closed system products such as a mall-wide gift card program. However, please be advised that FinCEN intends to engage in further rulemaking relating to the definition of stored value. Therefore, nothing in this letter should be relied upon by [ ] as binding on FinCEN with respect to any changes to the current rules * * *'' FinCEN Ruling 2003–4 (Definition of Money Transmitter/Stored Value (Gift Certificates/Gift Cards) (Aug. 15, 2003)).

[29] *See e.g.,* Cal. Civ. Code § 1749.5.

[30] 75 FR 36608.

than merchandise is of little economic benefit to them.

As a result of the many, diverse comment letters we received that addressed this aspect of the NPRM, we now better appreciate that closed loop prepaid access differs from open loop prepaid access in a very material way, both in operation and purpose. Closed loop prepaid access has evolved in its present form from the paper ''gift certificate'' that has existed for many years in the traditional retail environment. The migration to a card bearing a magnetic stripe reflects technological improvements that allow the merchant to track the remaining balance, the goods or services purchased, demographic data and other valuable marketing information. But, fundamentally, the closed loop prepaid access remains limited to its defined merchant and it is not redeemable in cash.

In our analysis of the appropriate treatment of closed loop prepaid access in the final rule, we have attempted to reconcile the perspectives of the commenting public with the cautions we continue to receive from law enforcement. Law enforcement has stressed to us that, in very large dollar amounts, closed loop prepaid access remains vulnerable to use by criminal enterprises for laundering funds through merchandise and trade, particularly for the purchase of consumer electronics and technology hardware.

Accordingly, FinCEN has chosen to set a dollar threshold of $2,000 for closed loop prepaid access, which helps address the concerns of both retailers and law enforcement. We believe that law enforcement presents legitimate concerns about potential for abuse in a limited segment of the closed loop prepaid access market. Of equal importance, however, is FinCEN's objective to facilitate legitimate commerce. As discussed below, we have determined that the limits to exclusions we had proposed for closed loop pertaining to international use and third-party transfers are not necessary at this point; all closed loop prepaid access that is issued in amounts of $2,000 or less will be excluded from the definition of prepaid program. This dollar level should encompass the bulk of retail sales of closed loop prepaid access for most consumer goods and services, and mitigate the potential for abuse by those who might otherwise seek to intermediate significant amounts of value outside of regulatory controls under the premise of the closed loop exclusion.

3. Government Funded Prepaid Access

In the NPRM, we discussed the increasing use by the Federal government of open loop branded prepaid access as a means of delivering various types of benefits and assistance, such as Social Security, disability and disaster relief payments. We also noted that state and local governments were increasingly interested in using prepaid access to deliver regular payments, such as unemployment benefits or child support, in a more efficient way than the traditional issuance and mailing of a check.

The available market research indicated that both government entities and recipients were receptive to this migration to prepaid access.[31] For the government payor, prepaid access offered a lower-cost, more secure payment method. For the payee, security features and the immediacy of the funds were considered very positive characteristics.

In the NPRM, we asked whether the use of prepaid access for the payment of government benefits posed any identifiable vulnerability. We had generally concluded that adequate controls were in place for government-administered prepaid access programs to safeguard against illicit use. But we believed that we could benefit by posing specific questions to the commenting public for issues or recommendations worthy of attention.

We received only a handful of comment letters that addressed this issue. All of these commenters strongly supported the use of prepaid access by government agencies. We also heard from a government agency at the Federal level charged with responsibility for establishing and operating prepaid access programs, with a very thorough explanation of the controls and safeguards in place.

Given these factors, we believe that our initial stance in the NPRM remains correct, and that these prepaid access programs are appropriately excluded from coverage under the final rule. As noted below, the exclusion will not be limited in the final rule. We have expanded the regulatory text to capture all facets of government at the Federal, state and local level, to include Tribal governments and U.S. Territories and Insular Possessions. The revised language is consistent with our intent in the NPRM and with other BSA regulations.

[31] U.S. Department of the Treasury, Financial Management Service Direct Express® Debit MasterCard® Survey (July 21, 2009). *See http://www.godirect.org/media/release/half-million-choose-direct-express/.*

4. Flexible Spending and Dependent Care Funded Prepaid Access

We have retained the exclusion for prepaid access to flexible spending and dependent care funds in the final rule. As noted below, there will be no limitations on this exclusion. The wording of the regulatory text used in the final rule differs slightly from that in the NPRM, due to recommendations offered to us by the IRS. The addition of the regulatory citations is not intended to broaden or limit the scope of this exclusion from that proposed in the NPRM.

We received significant public comment on this section of the proposed rule. Most commenters approved of this specific exclusion, and many recommended a broadening to include any type of employer-sponsored reimbursement account, such as fitness/wellness programs and commuter benefits programs. Additionally, some commenters urged us to expand the exclusion to include Health Savings Accounts (''HSAs''), which allow the commingling of health and non-health related funds.

We have chosen to retain our original scope of reimbursements as proposed in the NPRM. With respect to HSAs, we have consulted with the IRS and understand that funds in these types of accounts are not required to be earmarked for health care. Because the strict limitations inherent in health reimbursement arrangements (''HRAs'') are not present with HSAs, it is not prudent to allow any prepaid access associated with their use to be excluded from the definition of a prepaid program. We have also determined that it would not be appropriate to exclude prepaid access issued by various employer-sponsored reimbursement programs from the definition of a prepaid program. The operation of these private programs can vary greatly, and they also do not meet the same strict standards that apply to HRAs.

5. Limited Exclusions

In the NPRM, the limitations applied to all of the exclusions from the definition of a prepaid program. In the final rule, by contrast, we have identified only two categories of prepaid access that may present vulnerabilities to criminal use, but at the same time offer considerable benefits to American commerce and to the individual consumer. Under the final rule these two categories of prepaid access may remain outside the definition of a prepaid program but only if the use of the prepaid access is restricted in ways that limit the risk of misuse.

The limited exclusions under the final rule only apply to prepaid access to: (1) employment benefits, incentives, wages or salaries; or (2) funds not to exceed $1,000 maximum value and from which not more than $1,000 maximum value can be initially or subsequently loaded, used or withdrawn on any day through a device or vehicle. Such prepaid access is not entitled to exclusion, and therefore is a prepaid program, if it permits (1) funds or value to be transmitted internationally; (2) transfers between or among users of prepaid access within a prepaid program; or (3) loading additional funds or the value of funds from non-depository sources.

The use of prepaid access to deliver employment benefits, incentives, wages or salaries is a popular and widespread application. In many instances, it is a cost minimizer for the employer, who no longer must issue paper checks that may be lost, stolen or altered, and that often carry attendant postage costs. Instead, the employer appreciates the ability to assign payment electronically to prepaid access with a minimum of effort and cost; the employee is equally pleased with the efficiencies and cost savings, and the ability to access funds immediately with no need to cash a paper check. In addition, the use of prepaid access offers a solid audit trail that equals and sometimes exceeds that of paper instruments.

Commenters also pointed to the attributes of prepaid access over some payment situations where wages are paid out in cash, for example, to seasonal or migrant workers. Under these circumstances, the wage earner may not have access to traditional banking services or may be unable to transact business in a traditional setting, due to language or cultural barriers. The use of the prepaid access can serve as a form of ''mainstreaming'' for this individual.

Unfortunately, for all of the attributes that prepaid access presents for the payment of wages and salaries, it is also one of the areas of greatest law enforcement concern. Repeatedly, we have heard that payroll schemes involving prepaid access are growing in breadth and dollar volume, and that criminal actors continue to thrive in this environment. Where prepaid access to wages and salaries can be used to move significant amounts of money, on a repeated basis, to many different individuals, we believe that it is appropriate to require reasonable regulatory protections against misuse.

The final rule provides such protection by retaining the qualified exclusion for the use of payroll prepaid access that was proposed in the NPRM, under which prepaid program status is triggered if funds can be transmitted internationally, transferred to others, or reloaded at a non-depository institution. Businesses that provide payroll prepaid access will either tailor their prepaid access programs to the limitations or subject their prepaid program to the regulatory requirements associated with prepaid program status. Although this decision to keep payroll prepaid access subject to these limitations runs counter to the majority of the opinions expressed in the public comments, we believe that the better view is to exercise caution with respect to this type of prepaid access, especially because law enforcement has strongly warned about its vulnerability to money laundering.

Similarly, we have chosen to retain the three limitations with respect to prepaid access to funds that can exceed $1,000 in load, use or withdrawal capability at any time through a device or vehicle. We have done so based on the same continuing concerns about the vulnerability to money laundering of unlimited low denomination prepaid access that we have with respect to payroll prepaid access. We have, however, eliminated the requirement in the NPRM for a dollar limit to be clearly visible on the prepaid access device or vehicle in response to the many comments that this was not practicable and that it discriminated against those technologies for which it was impossible to manifest such a dollar limit on the prepaid access device or vehicle.

If payroll cards and prepaid access products below the $1,000 threshold do not permit international use, person-to person payments, or non-depository source loads, then such prepaid access is excluded from BSA regulation. In this construct, FinCEN wishes to clarify that we do not intend to sweep back into the scope of the rule prepaid access that might be used in conjunction with another prepaid access device that permits such activities, when the first prepaid access device does not. In that regard, status as a prepaid program is determined by the functionality of the product(s) within that program, not by the functionality of other products or services which they can purchase. Thus, a prepaid product that could be used to reload another prepaid product might not necessarily trigger the scope of the regulations, but such a prepaid product that was reloaded might itself be part of a program subject to the regulations if it can, for example, be used internationally. With respect to the limitations to the exclusions pertaining to transfers between or among users and reloadability by non-depository institutions, the same construct applies.

FinCEN also wishes to clarify that the limitation on international transmission is specifically intended to cover prepaid access devices that can be directly used outside of the United States. For example, while a network branded prepaid card with an initial and maximum load limit of $500 would generally be excluded, if it can be used to withdraw cash or purchase goods and services directly from foreign ATMs or merchants (via the Internet, in person, or otherwise) the limitation would apply and providers and sellers of such cards would be subject to the prepaid access rules. The limitation does not apply to prepaid access products that cannot be directly used for such foreign transactions. An example of such a product would be a network branded prepaid card with controls in place to prevent it from being used to withdraw cash or purchase goods and services directly from foreign ATMs or merchants (via the Internet, in person, or otherwise).

With respect to Internet transactions, the relevant issue is the foreign location of the merchant rather than the location of the person using the prepaid access product or the location where products are delivered or services rendered. Thus, for example, a prepaid card that permits an individual visiting a foreign country to make Internet purchases from a U.S.-based merchant would not be covered under the international use limitation by virtue of that functionality because the card cannot be used as a vehicle for moving money outside the United States. Additionally, if a prepaid access product can be used to fund a U.S.-based bank or other account or to purchase a different prepaid access device that permits international use, the original product does not trigger the international use limitation by virtue of that functionality.

III. Section-by-Section Analysis

A. Definition of Provider of Prepaid Access

1. In General

Section 1010.100(ff)(4)(i) defines a provider of prepaid access as the one participant among the entities engaged in offering a particular prepaid access program that agrees to serve as the contact and source of information for FinCEN, law enforcement and regulators for the particular program. The participants in a particular prepaid program should determine the single participant that serves as provider of prepaid access. As discussed above, this change was made because we were

persuaded of the value of the ability to clearly identify the provider by the mutually-determined decision, which offers other members of the program and law enforcement instant identification and expedient access to the entity in the transaction chain that will serve as ''the principal conduit of access to information.'' The provider must register as an MSB with FinCEN and will be subject to BSA regulations. The provider will be subject to oversight and examination for these obligations which include maintaining an AML program, reporting SARs, and recordkeeping and customer identification requirements.

2. Considerations for Provider Determination

Section 1010.100(ff)(4)(ii) provides factors for determination of the provider of prepaid access in the event that no participant in the prepaid program registers as the provider. Determining the provider of prepaid access in such a situation is a matter of identifying the participant with ''principal oversight and control.'' The determination of which participant in the prepaid program has principal oversight and control will be a matter of facts and circumstances. We recognize that there may be situations in which no single participant engages in all of the factors listed in 1010.100(ff)(4)(ii). However, there will be an identifiable participant in the prepaid program with the principal oversight and control, which will be in the best position to serve as a conduit for information for regulatory and law enforcement purposes. The rule lists the following five factors, each not dispositive on its own, which may indicate ''principal oversight and control'' and which FinCEN will use to identify a provider of prepaid access when there has been a failure by the parties to do so:

a. Organizing the prepaid program.

''Organizing the prepaid program'' includes the initiation and establishment of the prepaid program. This may involve actions or activities as diverse as identifying the need for a prepaid program, developing a business plan, obtaining financing, and contracting with other principals. A participant that organizes the prepaid program demonstrates oversight and control.

b. Setting the terms and conditions of the prepaid program and determining that the terms have not been exceeded.

This factor concerns the technical specifications involved in establishing and operating the prepaid program. Setting the terms and conditions encompasses a range of decisions concerning sales locations for prepaid access, fees assessed for activation and reloading, providing customer service, and other aspects of the program. A participant that sets the terms and conditions of a prepaid program demonstrates oversight and control.

c. Determining the other businesses that will participate in the prepaid program, which may include the issuing bank, the payment processor, or the distributor.

This factor addresses the participant that identifies and recruits the other participants involved in the prepaid program. The provider of prepaid access may choose other participants based on geographic proximity, specialized expertise in a particular line of prepaid access such as payroll programs, market expertise, or other considerations. Regardless of the reasons other participants are chosen, a participant that determines the other entities involved demonstrates oversight and control.

d. Controlling or directing the appropriate party to initiate, freeze, or terminate prepaid access.

The ability to affect the movement of funds is a very important factor in determining the provider of prepaid access. We understand that a participant in a prepaid program may exercise this authority alone, in tandem with other participants or at the direction of law enforcement or judicial authority. A participant that either moves or suspends funds or directs another participant to move or suspend funds demonstrates oversight and control.

e. Engaging in activity that demonstrates oversight and control of the prepaid program.

This factor is intended to capture situations where oversight and control may be evidenced by activities that do not fit squarely within items (a) through (d), preceding. To the extent that both the prepaid industry and our understanding of it continue to evolve, this criterion provides the flexibility needed to ensure reasonable longevity for the rule.

3. Prepaid Program

Section 1010.100(ff)(4)(iii) defines a prepaid program as an arrangement under which one or more persons acting together provide(s) prepaid access. There are circumstances, however, where particular arrangements involving prepaid access may be organized in such a way that they do not fall within the definition of a prepaid program. Arrangements whose operations fall squarely within one or more of the exclusions described below in (a)–(d) present such a low risk of money laundering or other illicit behavior that they do not justify regulation under the BSA and are therefore, not deemed to be a prepaid program under the rule. An arrangement is not a prepaid program if:

a. It provides closed loop prepaid access to funds not to exceed $2,000 maximum value that can be associated with a prepaid access device or vehicle on any day.

An arrangement that provides closed loop prepaid access to funds not to exceed $2,000 is not defined under this rule as a prepaid program. The effort required to use closed loop prepaid access for the placement, layering or integration of funds makes them unattractive and unlikely vehicles for moving large sums of money efficiently. Closed loop prepaid access is only used for particular goods or services, which limits the ability to use it to move money quickly and easily in large amounts. The limitation to an identifiable merchant (which is an element of the definition of ''closed loop prepaid access,'' as discussed below) similarly restricts the utility of closed loop prepaid access for money laundering purposes.

As discussed above, the exemption for closed loop prepaid access has been changed in response to comments. The exemption now applies to closed loop prepaid access of less than $2,000 maximum value.[32] Unlike the NPRM, it exempts such closed loop prepaid access even if it allows international use, transfers within the prepaid program, or loading from non-depository sources. We believe these changes more accurately reflect the risks associated with closed loop prepaid access.

b. It provides prepaid access solely to funds provided by a Federal, State, local, Territory and Insular Possession, or Tribal government agency.

Various government agencies provide funds for many types of obligations such as salaries, tax refunds and benefits including unemployment, child support, disability, Social Security, veterans' benefits and disaster relief assistance through prepaid access. Given governmental oversight over these programs and the single source of the funds, we see minimal opportunity for the placement or layering of illicit funds into the financial system through prepaid access to government benefits.

As discussed above, the exemption for government funded prepaid access has been changed in response to comments

[32] See II. e.2 above. The threshold of $2,000 reflects a balancing of concerns between retailers and law enforcement and FinCEN's intent to assess money laundering risks while facilitating legitimate commerce.

to exempt all such prepaid access without regard to international use, transfers within the prepaid program, or loading from non-depository sources. These changes more accurately reflect the low risks associated with government funded prepaid access.

c. It provides prepaid access solely to funds from pre-tax flexible spending arrangements for health care and dependent care expenses, or from Health Reimbursement Arrangements (as defined in 26 U.S.C. 105(b) and 125) for health care expenses.

Generally administered by a central payor, these arrangements are pre-funded by employee and/or employer contributions to an account maintained by the payor. There are maximum annual dollar limits established for these accounts, and the funds can only be accessed as reimbursement for defined, qualifying expenses. We believe that these types of highly controlled, low risk accounts are of minimal value to potential money launderers as a means of placing or layering funds. For this reason, we have excluded these arrangements from the definition of prepaid program.

As discussed above, the exemption for health and dependent care flexible spending prepaid access has been changed in response to comments to exempt all such prepaid access even if it allows international use, transfers within the arrangement, or loading from non-depository sources. We believe these changes more accurately reflect the low risks associated with health and dependent care flexible spending prepaid access.

d. It provides prepaid access solely to (i) employment benefits, incentives, wages or salaries; or (ii) funds not to exceed $1,000 maximum value and from which no more than $1,000 maximum value can be initially or subsequently loaded, used, or withdrawn on any one day through a device or vehicle, subject to certain limitations.

Prepaid access to benefits and salaries and prepaid access subject to low funds limits do not fall within the definition of prepaid program under this final rule unless they contain certain higher risk features that obscure financial transparency, thereby meriting regulation. Specifically, arrangements limited to funding employment benefits, incentives, wages or salaries, and those limited to funds not to exceed $1,000 maximum value and from which no more than $1,000 maximum value can be initially or subsequently loaded, used, or withdrawn on any day through a device or vehicle, do not fall within the definition of prepaid program under this final rule if they do not allow international use, person-to-person transfers, or loading from non-depository sources.

i. Employment benefits, incentives, wages or salaries.

In most employer-employee relationships, the necessary personal details regarding the employee (such as full name, address, date of birth and a government identification number) are known to the employer. In those situations, where the individual employees paid under the program are identified by the employer, and where this information is shared with (or made available to) the provider of prepaid access, there are sufficient checks on possible money laundering abuse to warrant exclusion for this type of program. These payroll programs, in addition to regularly scheduled wage and benefits payments, may also include bonus or incentive payments paid at intervals outside the norm. This exemption applies only to arrangements in which the employer, and not the employee, can add to the funds. The ability to co-mingle funds accessed through the payroll card from sources other than the employer would obscure financial transparency and greatly increase the money laundering risk. The payment of ''[b]enefits, incentives, wages or salaries'' solely from the employer generally does not represent an opportunity for the placement of ill-gotten funds into the financial system (at least as distinct from criminal activity on the part of the employer originating the payments, not related to the use of prepaid access).

ii. Funds not to exceed $1,000 maximum value and from which no more than $1,000 maximum value can be initially or subsequently loaded, used, or withdrawn on any day through a device or vehicle.

We believe that the potential for misuse is significantly lessened where the prepaid access is to funds limited to a $1,000 maximum limitation and no subsequent loading or reloading can increase the funds beyond the stated maximum on any day through a device or vehicle. We have chosen a $1,000 maximum for this provision for a number of reasons: (1) 2009—2010 industry research findings for average and maximum initial loads; [33] (2) consistency with thresholds established for other MSB categories; and (3) the appropriate balance between the concerns expressed by law enforcement and industry.

This final rule differs from the NPRM in that the phrasing of the $1,000 maximums has been collapsed from three separate subsections into one because it is more concise and, we believe, clearer. It also clarifies that this limitation applies to a single device or vehicle, not across an entire prepaid program. Additionally, the NPRM included a requirement that the maximum value of the prepaid access product eligible for this exemption must be clearly visible on the product itself. The final rule does not include this requirement based on present concerns, as informed by some comments, that the requirement may be un-workable and may not be technologically neutral.

iii. Limitations on the payroll and limited value prepaid access exemptions.

Payroll cards and limited value prepaid access devices or vehicles are subject to a qualified exception under the final rule, allowing the programs to fall outside of the requirements unless key risk factors change. Specifically, the exemption is not applicable, and prepaid program status is triggered, if funds can be transmitted internationally, electronically transferred to other users of the prepaid access, or reloaded at a non-depository institution. While not inherently suspect, arrangements having these characteristics have risks significantly greater than the otherwise minimal risk presented by payroll and limited value prepaid access arrangements.[34]

B. Definition of Seller of Prepaid Access

In the NPRM, a seller of prepaid access was defined as ''any person that receives funds or the value of funds in exchange for providing prepaid access as part of a prepaid program directly to the person that provided the funds or value, or to a third party as directed by that person.'' As discussed more fully below, FinCEN has modified the definition of seller of prepaid access *to cover a much smaller, more targeted* universe of retailers. The NPRM also proposed to require sellers of prepaid access to: (1) Develop and implement an effective AML program; (2) report suspicious activity; and (3) comply with recordkeeping requirements related to customer identifying information and transactional data. These regulatory requirements remain largely unchanged in the final rule.

[33] FinCEN conducted research of prepaid program providers and reviewed the maximum daily load values of various programs available on public Web sites. Generally, programs reviewed through this research restricted cash loads or withdrawals to $950 or less per day.

[34] For a fuller discussion on the risks inherent in international use of prepaid access, *see* 75 FR 36589, 36599–600.

In the final rule, FinCEN has replaced the phrase ''* * * in exchange for providing prepaid access as part of a prepaid program directly to the person that provided the funds or value, or to a third party as directed by that person'' with ''in exchange for an initial loading or subsequent loading of prepaid access. * * *'' Thus, if the other conditions of the rule are met, a person is a seller of prepaid access if the person accepts payment in exchange for the initial or subsequent loading of prepaid access. The modified language more clearly articulates the types of transactions covered under the definition.

As proposed, the rule would only apply to retailers that sell prepaid access devices or vehicles that are part of a prepaid program as defined in the rule. One of the primary issues raised in the comment letters was that low-dollar closed loop prepaid access (with some comments also referring to closed loop prepaid access that permits international use), was covered under the proposed definition of prepaid program. As such, the proposed rule would have subjected retailers that sell such prepaid access to regulation as sellers of prepaid access. Commenters argued that low-dollar closed loop prepaid access is relatively low-risk, and retailers that sell such access should not be subject to the regulation by virtue of that activity alone. FinCEN agrees that low-dollar closed loop prepaid access poses limited money laundering risks. Therefore, as discussed above, FinCEN has modified the definition of prepaid program in the final rule to cover only closed loop prepaid access with a value of $2,000 or more. Additionally, as discussed above, the definition of prepaid program in the final rule does not cover closed loop prepaid access merely because it can be used internationally. Under the final rule, retailers that sell low-dollar closed loop prepaid access are not subject to regulation as sellers of prepaid access by virtue of that activity alone. However, retailers that sell high-dollar (in excess of $2,000) closed loop prepaid access are subject to regulation as sellers of prepaid access.

FinCEN continues to believe that prepaid access such as general purpose reloadable products with no restrictions on international use poses heightened money laundering risks, regardless of the value of the funds to which such access is being provided. As discussed above, the final rule adopts the formulation in the NPRM that includes this prepaid access under the definition of prepaid program. Accordingly, this type of prepaid access triggers the regulatory obligations applicable to both providers and sellers of prepaid access.

Under section 1010.100(ff)(7) of the final rule, a seller of prepaid access is any person that receives funds or the value of funds in exchange for an initial loading or subsequent loading of prepaid access if that person sells prepaid access offered under a prepaid program that can be used before verification of customer identification under § 1022.210(d)(1)(iv); or sells prepaid access (including closed loop prepaid access) to funds that exceed $10,000 to any person during any one day, and has not implemented policies and procedures reasonably adapted to prevent such a sale.

Under paragraph (ff)(7)(i), a person is a seller of prepaid access if the person sells any prepaid access under any prepaid program, where the customer can use the prepaid access before verification of customer identification by any participant in the prepaid program. However, a person is not a seller of prepaid access under this provision with respect to the sale of prepaid access that requires post-purchase activation and the collection of customer identifying information before use. The phrase ''that can be used before verification of customer identification'' only refers to use of features of a prepaid access product that would make it qualify as a prepaid program. For example, the sale of a prepaid access product that allowed the initial funds loaded, if below $1,000, to be used for purchases and did not have access to features such as international use, person-to-person transfers, and loads from non-depository sources prior to verification would not make a retailer a seller. FinCEN believes this approach appropriately regulates retailers that sell high-risk products, while not imposing undue obligations on retailers that only sell relatively low-risk products.

Under paragraph (ff)(7)(ii), a person is a seller of prepaid access if the person sells any prepaid access—even that which is not covered under the definition of prepaid program—that provides access to more than $10,000 to any person during any one day, subject to an exemption for retailers with policies and procedures reasonably adapted to prevent such sales. FinCEN believes this additional activity threshold is necessary in light of FinCEN's more targeted approach to regulating sellers of prepaid access in this final rule. All retailers should already be familiar with reporting requirements for cash transactions exceeding $10,000. Retailers are obligated under the BSA rules to file reports on the receipt of currency in excess of $10,000 in the course of engaging in a trade or business.[35] However, the sale of prepaid access in an amount greater than $10,000 should automatically raise a red flag with a retailer, regardless of whether the customer makes the purchase in cash or some other form of payment. High dollar transactions involving prepaid access pose inherent money laundering risks. To permit such transactions to occur without the prospect of any BSA reporting or recordkeeping requirements, other than the reporting of cash transactions, would deprive law enforcement of access to highly useful information. Therefore, it is appropriate to regulate retailers that sell prepaid access in an amount greater than $10,000, requiring them to maintain an anti-money laundering program, report suspicious activity and collect customer identifying information.

However, we do not think it is necessary to impose such regulatory burdens on retailers that implement and adhere to policies and procedures that are reasonably adapted to prevent the sale of more than $10,000 of prepaid access. This is consistent with a risk-based regulatory approach. Retailers may take into consideration their lines of business, customer base, and prepaid access sales volume in developing their internal policies and procedures in such a way as to reduce their risk of money laundering. FinCEN believes that such a risk-based approach for sellers strikes the right balance with respect to including certain sellers within the scope of the rule, while at the same time enabling those with lower risks to avoid the full scope of the rule. FinCEN believes the definition of seller of prepaid access will apply to a relatively small number of retailers and will not impose an unjustifiable burden on any retailers.

C. Definition of Prepaid Access

The prior regulations used the term ''stored value.'' 31 CFR 1010.100(ww), formerly 103.11(vv), defined the term as funds or the value of funds represented in digital electronic format (whether or not specially encrypted) and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically. The term ''stored value,'' as discussed previously, was known from its inception to be a less-than-perfect label for this payment mechanism, given that no value is actually ''stored'' on the card. Very shortly after the publication of the MSB final rule in 1999, the term ''prepaid''

[35] *See* 31 CFR 1010.330(a), formerly 31 CFR 103.30(a).

emerged as the more common industry term. This rule revises our term to correspond to the more accurate, more prevalent term in the marketplace.

This rule employs more precise terminology while still striving for regulatory flexibility, so that the rule will not become obsolete with the next innovative product. We believe the definition has the necessary regulatory elasticity to survive future technological advancements. Specifically, we define ''prepaid access'' as ''[a]ccess to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle, such as a card, code, electronic serial number, mobile identification number, or personal identification number.'' The definition has been changed somewhat from that proposed in the NPRM to clarify that prepaid access is not itself a device or vehicle, but that such a device or vehicle is a means through which prepaid funds are accessed. The two main elements of prepaid access are stated in the definition: (1) funds have been paid in advance; and (2) those funds can be retrieved or transferred at some point in the future. We also reduce the number of examples in the definition to eliminate redundancy.

D. Definition of Closed Loop Prepaid Access

The term ''closed loop prepaid access'' is defined as ''[p]repaid access to funds or the value of funds that can be used only for goods or services involving a defined merchant or location (or a set of locations), such as a specific retailer or retail chain, a college campus, or a subway system.'' This definition, which supersedes the definition of ''closed loop stored value'' proposed in FinCEN's 2009 MSB rulemaking, revises slightly the definition proposed in the NPRM. Compared to the definition proposed in the NPRM, it limits closed loop prepaid access to use for goods and services, excluding transfers of value to third parties and cash withdrawals.[36] It continues to limit closed loop prepaid access to transactions involving a defined merchant or location(s). In this context, FinCEN wishes to clarify that a defined merchant may comprise a set of affiliated retailers or retail chains.

E. Anti-Money Laundering Programs for Money Services Businesses

This rule revises the regulation implementing 31 U.S.C. 5318(h) that requires MSBs to maintain an adequate anti-money laundering program. Specifically, it amends 31 CFR 1022.210(d)(1), formerly 31 CFR 103.125(d)(1), by prescribing that, as part of their anti-money laundering programs, providers and sellers of prepaid access must have policies and procedures for access to and retention of customer identifying information and either retaining that information (in the case of sellers of prepaid access) or retaining access to that information (in the case of providers of prepaid access).

In implementing 31 CFR 1022.210, FinCEN stated that the uniqueness of each financial institution required the adaptation of policies, procedures, and internal controls to a level commensurate to the risks in the financial institution's business model, including geography and customer base. Therefore, we did not intend for each MSB to have identical policies and procedures for their AML programs. Based on inherent risks, some businesses would be required to implement more comprehensive policies, procedures, and internal controls than others.

This regulation adds a customer information recordkeeping requirement (including, name, date of birth, address, and identification number) for the provider and seller of prepaid access. Providers of prepaid access must retain access to such identifying information for five years after the last *use* of the prepaid access. Sellers of prepaid access must retain such identifying information for five years from the date of the *sale* of the prepaid access. FinCEN believes that obtaining and retaining (or retaining access to) such customer information is necessary for greater financial transparency concerning the purchasers of prepaid access. We anticipate that access to and retention of such records will assist providers and sellers, and may be of great value to law enforcement.

The requirement that providers of prepaid access must obtain the identifying information of a person who obtains prepaid access under a prepaid program is linked to and narrowed by the definition of ''prepaid program.'' Accordingly, providers of prepaid access in an arrangement that does not fall within the definition of a prepaid program under 31 CFR 1010.100(ff)(4)(iii) will not be required to obtain customer information. For example, prepaid access to funds less than $1,000 through a device or vehicle that does not allow international use, transfers between prepaid access products within one prepaid program, or loads from non-depository sources does not require a provider to collect customer identification.

With respect to sellers of prepaid access, there are two situations under which customer information must be collected. Under one situation, sellers that fall within the scope of the regulations by virtue of the definition at 31 CFR 1010.100(ff)(7)(i) (*i.e.,* where the customer can access funds under a prepaid access program without verification of customer identification) are responsible for collecting customer information. Since this definition is also linked to the definition of prepaid program, this situation will involve both the provider and the seller of prepaid access being responsible for the collection of this information. While both are responsible under the regulation for the collection of this information, they may agree with one another as to which will collect the information. Under the other situation, sellers that fall within the scope of the regulations by virtue of 31 CFR 1010.100(ff)(7)(ii) (*i.e.,* sale of any type of prepaid access in a combined amount greater than $10,000) must also obtain customer identification. Since this definition is linked to the sale of more than $10,000 of any type of prepaid access, whether covered under a prepaid program or not (including closed loop access), there may be situations under which the seller, but not the provider, is obligated to collect the customer information.

The rule requires collection, verification, and retention of standard identifying information, including name, date of birth, address, and identification number. This information will be highly useful to law enforcement in the investigation and prosecution of criminal, tax, and regulatory investigations and proceedings. These requirements are intended to mirror the customer identification programs required of other financial institutions and draws on the explanations and interpretations issued with respect to those requirements.[37] Providers and sellers of prepaid access are reminded that the AML programs they develop pursuant to this rule should be appropriate for their prepaid program operations. AML programs must be sufficiently detailed with standards and criteria specified for how the information is to be accessed, collected, verified, and retained. There should also be provisions addressing communication to employees and for the training of any individuals or entities acting as their agents.

[36] Other than *de minimis* redemptions of cash value required by law, *see, e.g.,* Cal. Civ. Code 1749.5(b)(2).

[37] 31 CFR 1020.220(a), formerly 103.121(b).

F. Reports by Money Services Businesses of Suspicious Transactions

This rule revises the regulation implementing 31 U.S.C. 5318(g), which requires MSBs to report certain suspicious activity. In particular, this rule removes the stored value exemption, found at 31 CFR 1022.320(a)(5), formerly 103.20(a)(5), from the regulation requiring MSBs to report suspicious activity. When the exemption was proposed, FinCEN considered issuers, sellers, and redeemers of stored value to be among the institutions that could provide valuable information concerning suspicious transactions.[38] However, at that time FinCEN determined that it was not appropriate to specifically require issuers, sellers, and redeemers of stored value to file SARs because of the infancy of the industry and the fledgling use of stored value products in the United States.[39] Over the last decade, however, the growth of the prepaid industry has made it an attractive medium through which money launderers can conduct illicit transactions. Prepaid access is easily transportable and, in some cases, can be loaded from a number of different locations. Therefore, the underlying rationale for the exemption from SAR reporting no longer applies.

G. Registration of Money Services Businesses

This rule revises the regulation implementing 31 U.S.C. 5330 that requires MSBs to register with FinCEN. Specifically, FinCEN is amending 31 CFR 1022.380, formerly 31 CFR 103.41, by removing the exemption from registration accorded to issuers, sellers, and redeemers of stored value. Since the initial exemption was granted, the prepaid access industry has experienced rapid growth. FinCEN no longer feels that regulatory requirements such as registration will inhibit the successful development of the industry. By removing the exemption, providers of prepaid access will now be required to register as MSBs with FinCEN.[40]

Identifying information about each of the individual prepaid programs for which an entity serves as provider is fundamentally important to the law enforcement community. The most efficient way to obtain this information and make it available for law enforcement use is via the registration process, which now requires that ''[e]ach provider of prepaid access must identify each prepaid program for which it is the provider of prepaid access.'' A provider of prepaid access registering as an MSB must submit, as part of its registration and registration renewals, a complete list of the prepaid programs for which it serves as provider. The list of prepaid programs must include sufficient identifying information for FinCEN and law enforcement to identify the provider of prepaid access based on the information submitted in the registration process and the information present on the device or included with the vehicle.

Compliance with the requirement that a complete list of prepaid programs be submitted with registration, however, will require a change to FinCEN Form 107, Registration of Money Services Business. The current form does not contain a field in which such information can be included. FinCEN will soon publish a new proposed form for notice and comment which makes a number of conforming changes to reflect this final rule, including renaming stored value prepaid access and allowing for identification of prepaid programs. Accordingly, this rule provides that compliance with 31 CFR 1022.380 is not required until six months after the date of publication of this final rule in the **Federal Register**, by which time the revised FinCEN Form 107, Registration of Money Services Business, will be final and available.

H. Records Required To Be Maintained By Money Services Businesses

Our discussions with the law enforcement community have revealed the utility of detailed records and recordkeeping on the part of regulated financial institutions over a substantial period of time, generally five years. This facilitates investigations in which law enforcement is attempting to reconstruct a pattern, or a history of transaction activity, that substantiates criminal behavior involving prepaid products or services. Section 1022.210 requires access to recordkeeping related to the customer involved in the initial purchase of the prepaid access product. Section 1022.420 requires access to transactional records generated in the ordinary course of business that would be necessary to reconstruct prepaid access activation, loads, reloads, purchases, withdrawals, transfers, or other prepaid related transactions for a period of five years.

These records would routinely reflect: (1) Type of transaction (ATM withdrawals, point-of-sale purchase, *etc.*); (2) amount and location of transaction; (3) date and time of transaction; and (4) any other unique identifiers related to transactions. These records need not be kept in any particular format, or by any particular participant in the prepaid program. The provider of prepaid access, however, bears the responsibility for complying with these recordkeeping requirements. Additionally, the records must be easily accessible and retrievable upon the appropriate request of FinCEN, law enforcement or judicial order.

IV. Regulatory Flexibility Act

When an agency issues a rulemaking, the Regulatory Flexibility Act (''RFA'') requires the agency to ''prepare and make available for public comment a regulatory flexibility analysis'' which will ''describe the impact of the rule on small entities'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

A. Impact on Providers of Prepaid Access

1. Estimate of the number of small entities to which the rule will apply

For the purpose of arriving at an estimated number of providers of prepaid access, FinCEN is relying on information regarding the industries as identified by their North American Industry Classification System (''NAICS'')[41] codes. In particular, FinCEN finds that prepaid providers will be listed as NAICS code 522320 (Financial transaction processing, reserve and clearinghouse activities). The United States Census Bureau estimates there are about 3000 entities in this classification. However, this classification includes services that are outside of those provided by prepaid providers (*i.e.* check validation services, bank clearinghouse associations, and credit card processing services). Because prepaid providers utilize electronic funds transfers systems to conduct business, FinCEN narrowed the estimated industry to those entities that are within NAICS code 522320 and perform either electronic funds transfers or electronic financial payment services. FinCEN was unable to obtain a number for these entities from the United States

[38] 62 FR 27900, 27904 (May 21, 1997).

[39] *Id.*

[40] Any MSB, including a seller of prepaid access, that is an MSB solely because it is the agent of another MSB, is exempt from the registration requirement. *See* 31 CFR 1022.380(a).

[41] NAICS was developed as the standard for use by Federal statistical agencies in classifying business establishments for the collection, analysis, and publication of statistical data related to the business economy of the United States. NAICS was developed under the auspices of the Office of Management and Budget (OMB), and adopted in 1997.

Census Bureau and therefore relies on commercial database information. Based on this information, FinCEN estimates that there are 700 entities that share this classification.[42] Within this classification those entities that have less than seven million dollars in gross revenue are considered small. FinCEN estimates that 93% of the affected industry is considered a small business, and that the regulation will affect all of them.[43]

2. Description of the Projected Reporting and Recordkeeping Requirements of the Rule

The rule requires prepaid providers to comply with the same BSA requirements as those with which other MSBs are already complying. By requiring this, FinCEN is addressing vulnerabilities in the U.S. financial system and is leveling the playing field among MSBs. Currently, all MSBs are required to maintain AML programs, report certain currency transactions, and maintain certain records. Also, MSBs, except check cashers and issuers, sellers, and redeemers of stored value, have been required to file reports on suspicious transactions. The rule requires prepaid providers to comply with these same requirements. The rule requires prepaid providers to register with FinCEN. Additionally, prepaid providers are required to maintain records about customer identification and transactional information. As discussed below, FinCEN does not foresee a significant impact on the regulated industry from these requirements.

3. AML Program Requirement in General

The rule requires prepaid providers to maintain AML programs. The majority of providers have not been previously required by regulation to maintain AML programs. However, FinCEN does not believe there are special skills required to develop an AML program other than effectively identifying risk. Risk assessment is a standard, fundamental precept of any entity seeking to limit fraud, loss, and other harm to the business.

To assist entities new to FinCEN oversight, we offer guidance and information through our public Web site and through a toll-free, live telephone helpline. We publish overview and compliance guidance in English and eight other languages, provided free of charge upon request. In all of this information, we emphasize that an AML program should be commensurate with an institution's risks stemming from various factors including size. Therefore, we would generally expect a smaller entity's AML Program to be less complex than that of a larger entity, involving the dedication of less time and fewer resources. Additionally, through discussions with industry and representations from a prepaid card association, FinCEN has determined that prepaid providers are already maintaining AML programs, typically as part of their contractual obligations to their partner banks or credit card networks. When an issuing bank partners with a prepaid provider the bank may require that the provider maintain an AML program commensurate with the bank's risk tolerance. To assist these prepaid providers, prepaid card associations publish reports on AML best practices. Providers that may already be contractually obligated to maintain an AML program through an agreement with the issuing bank will now be legally required to do so under this rule. FinCEN estimates that the impact of this requirement will be minimal as it only codifies current business practice.

4. Currency Transaction Reporting

The rule will require prepaid providers to report transactions in currency in amounts greater than $10,000. Because the average load amounts for prepaid cards are well below the $10,000 threshold and the majority of prepaid loads above $1,000 are made through direct deposit, FinCEN does not foresee a significant burden in this requirement. In support of this assertion, several prepaid providers have stated to FinCEN that they have rarely, if ever, encountered a transaction of over $10,000 in currency, per person, per day, associated with their prepaid programs.

5. Suspicious Activity Reporting

The rule will require prepaid providers to report on transactions of $2,000 or more which they determine to be suspicious. Prepaid providers have not been required previously to comply with such a requirement by regulation. It is important to highlight that these reports are not required to be filed unless a transaction is suspicious and is for an amount of $2,000 or more. The average transaction amount for a point-of-sale debit is about $40.[44] This is substantially less than the $2,000 threshold. Additionally, through an overview of currently operating programs, FinCEN has determined that few prepaid programs allow a customer to withdraw more than $1,000 from an ATM in a day. Lastly, in discussions with the industry, prepaid providers indicated that they rarely encountered transactions for which they would need to file a SAR if required by regulation. Therefore, FinCEN estimates that the number of SARs required to be filed by prepaid providers and sellers will be low. FinCEN estimates the cost to generate such SAR at $36.[45]

FinCEN understands that the costs in SAR reporting go beyond the actual cost in filing the report and include procedures in place to monitor transactions. FinCEN also understands that a majority of prepaid providers are already engaged in this monitoring. To assist small entities with compliance, FinCEN provides a SAR Reference Guide in English and eight other languages.[46]

6. Customer Identification Information Collection and Retention

The rule will require prepaid providers and sellers to implement procedures to collect and retain customer information relating to prepaid access within prepaid programs as defined by this rule. Providers of prepaid access have not previously been required to retain this information by regulation.

Similar to the discussion of AML programs above, prepaid providers are currently required to obtain and retain customer identification information through contractual obligations with the bank partners. Since the implementation of section 326 of the USA PATRIOT Act, banks have been required to obtain customer identification for each account they open. Through discussions with prepaid industry members and associations, FinCEN has determined that, to mitigate

[42] Dun and Bradstreet, D&B Duns Market Identifiers Plus (US) (Accessed on Nov 19, 2009) (Search of Codes NAICS 522320 with removal of outlying institutions).

[43] For NAICS code 522320, those entities that generate less than $7 million in annual revenue are considered small entities by the SBA. FinCEN estimates that each prepaid card generates $450 in annual revenue to a prepaid provider through all relevant fees such as purchase and maintenance fees. For analytical purposes, we consider any prepaid provider issuing no more than 15,000 cards annually to be a ''small entity.'' [15,000 × $450 = $6.7 million].

[44] Cheney, Julia ''An Update on trends in the Debit Card Market,'' Payment Cards Center, June 2007, pg. 3 (citing The Nilson Report Issue 865); available at *http://www.phil.frb.org/payment-cards-center/publications/discussion-papers/2007/D2007JuneUpdateDebitCardMarketTrends.pdf.*

[45] FinCEN's estimate of 90 minutes to complete and record a SAR multiplied by the average hourly wage of a compliance officer ($24.57) is $36. According to Bureau of Labor Statistics, the mean hourly wage of a compliance officer is $24.47. See Bureau of Labor Statistics, ''Occupational Employment and Wages, May 2006'', *http://www.bls.gov/oes/2006/may/oes131041.htm.*

[46] *http://www.fincen.gov/financial_institutions/msb/materials.html.*

risks, banks have extended this customer information requirement to their prepaid provider partners through contractual obligations. Therefore, some providers of prepaid access are already obtaining and maintaining information on their customers to comply with contractual obligations. Beyond these obligations, many prepaid providers are maintaining this information to assist in their fraud monitoring and targeted marketing programs. FinCEN estimates the time required to obtain customer information under this rule at 2 minutes per prepaid access card. In our analysis of the effects of this portion of the rule under the Regulatory Flexibility Act and the Paperwork Reduction Act, we have attempted to extrapolate from available business resources and information (*e.g.,* commercial databases, U.S. government Web sites and publications) to the available open-source data about the emerging prepaid industry. For both RFA and PRA, we sought to determine the overall impact of this portion of the rule by identifying increases to total business payroll costs.

As explained previously under this section, in footnote #50, we have calculated that each prepaid card generates approximately $450 in annual revenue to a prepaid provider. Using the most applicable NAICS category, and the identification of $7 million or less in annual revenue as the Small Business Administration's definition of a ''small business'' for this category, we have arrived at a determination of a very modest projected impact on annual company payroll.

We applied the two minute time allotment per prepaid access card, described above, to the number of prepaid cards issued annually by a small business prepaid provider (15,000), to arrive at a total time value of 30,000 minutes (or 500 hours). Since we have previously stated that we believe the average lifespan of a prepaid card to be three years, we divided the total by 3, and multiplied using the $25 average hourly wage of a compliance officer (see footnote #43) to calculate a total annual impact on company payroll of $4,100. This figure represents an impact of only .2 percent of the average annual payroll of $1.8 million for entities under this NAICS category.

For comparative purposes, we also applied the same analysis to entities generating only $100,000 in annual revenue, considered by the SBA to be the minimum level of a ''small business'' within this NAICS category. Small businesses at this revenue level would issue approximately 220 cards per year. Applying the same assumptions for revenue level per card, hourly salary for compliance personnel and lifespan of a card, the calculations (using average annual payroll of $64,000 for these entities within the NAICS category 522320) results in an increase of 2 hours (or $50 annually) for a very marginal effect on total annual company payroll of .07 percent.

7. Transaction Records Generated in the Ordinary Course of Business

The rule will require providers of prepaid access to retain transaction specific records generated in the ordinary course of business. Currently, providers are not required to maintain these records under the BSA. However, for transactions processed through a point-of-sale system or other access gateway, the Electronic Funds Transfer Act requires the retention of this information for a period of two years.[47] FinCEN will extend this retention to a period of five years to be commensurate with other BSA record retention obligations. In its PRA statement, FinCEN estimates that the annual impact of this requirement is 16 hours per recordkeeper. FinCEN has determined that for those entities with annual revenue close to $7,000,000, this requirement will increase costs to payroll by .02%. For those entities with annual revenue of $100,000, this requirement will increase costs to payroll by .6%.

8. Registration of Providers

The rule will require providers of prepaid access to register with FinCEN. The FinCEN registration form is two pages and must be filed once every two years. Under OMB control number 1506–0013, FinCEN estimates that the biannual burden from reporting and recordkeeping associated with this registration is two and a half hours.[48] In accordance with the estimated hours in its PRA statement, FinCEN estimates that this requirement will impact small entities by $36 annually.

B. Impact on Sellers of Prepaid Access

1. Estimate of the Number of Small Entities To Which the Rule Will Apply

For the purpose of identifying sellers of prepaid access, FinCEN is unable to rely on NAICS codes because sellers, including grocery stores, convenience stores, and department stores, will be classified under the primary services that they provide. To arrive at an estimated number of sellers of prepaid access, FinCEN is relying on information about distribution channels obtained through informal discussions with members of the prepaid industry. In addition, FinCEN is relying on information concerning prepaid access selling patterns identified in the 2005 Money Services Business Industry Survey Study conducted by KPMG.[49]

In the NPRM, FinCEN estimated that there were 70,000 sellers of prepaid access operating within prepaid programs. In response to comments received, FinCEN has made changes to the definition that substantially limits the number of sellers of prepaid access that will be affected by this final rule. First, closed loop prepaid access must provide access to funds in excess of $2,000 to be covered under the definition of prepaid program. The vast majority of retailers that sell closed loop prepaid access do not thereby provide access to amounts over $2,000. These retailers would not be subject to the final rule. Second, the final rule only affects retailers to the extent they either (1) sell prepaid access that is immediately useable at the point of sale and requires no later activation, or (2) sell prepaid access to more than $10,000 to any person on any day. Commenters to the NPRM indicated that very few prepaid programs, if any, permit immediate usage without a later activation process that includes appropriate customer identification procedures, and that very few retailers, if any, sell prepaid access in such large amounts.

Retailers that sell immediately usable prepaid access that is not closed loop prepaid access are appropriately regulated as sellers of prepaid access under the final rule if those products pose heightened money laundering risks by: (1) Permitting access to funds in excess of $1,000; or (2) permitting international use, person-to-person transfers, or additional loading of funds from non-depository sources. The prepaid industry can avoid the regulation of retailers as sellers of prepaid access by implementing pre-use activation procedures that include appropriate customer identification information collection, already common with respect to many prepaid programs.

Although FinCEN is unable to determine an exact number of sellers that participate in programs that pose heightened money laundering risks such as high-dollar anonymous programs, comments received in response to the

[47] *See* 12 CFR 205.13.

[48] The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1022.380 is 30 minutes per recordkeeper for the completion, filing, and recordkeeping of registration forms, and an additional 120 minutes for the completion, filing, and recordkeeping of the list of prepaid programs subject to the regulation.

[49] *http://www.fincen.gov/news_room/rp/reports/pdf/FinCEN_MSB_2005_Survey.pdf.*

NPRM suggest that these products make up less than 1% of the current market. From this, we believe a small percentage of the population of retailers will be required to implement the full ambit of BSA requirements. In addition, based on an assessment of the number of stored value entities that have filed reports with FinCEN under BSA regulations, FinCEN believes there is further evidence that the number of entities engaging in activities that would trigger the requirements with respect to sellers of prepaid access can be estimated to be less than 700.[50] Therefore, FinCEN estimates that the rule will have a significant impact on less than 1% of the 70,000 sellers estimated by FinCEN in its NPRM.

Additionally, retailers that sell any type of prepaid access to funds in excess of $10,000 to any person during any one day are regulated as sellers of prepaid access under the final rule. Based on the comments received in response to the NPRM, FinCEN believes that such sales are exceedingly rare, and it would be relatively easy for retailers to implement policies and procedures that would ensure that they did not engage in such sales. Retailers that implement policies and procedures reasonably designed to ensure that they do not sell over $10,000 of prepaid access to one person in one day will not be considered sellers of prepaid access. Development and implementation of such policies and procedures will affect essentially all sellers.

2. Description of the Projected Reporting and Recordkeeping Requirements of the Rule

Under the final rule, certain sellers, less than 1%, will be required to create an AML Program, file SARs and CTRs, and retain customer transaction information including obtaining the identification of the purchaser. Commenters expressed that although these activities have been performed by providers of prepaid access, these requirements would be a new burden imposed on the sellers of prepaid access and would have a significant impact on those sellers. As stated above, FinCEN revised the regulatory obligations on sellers, limiting the impact to only those sellers that sell a particular type of prepaid access other than closed loop prepaid access that allows high dollar amounts, international use, person-to-person transfers, or loads from non-depository sources. Both law enforcement and the industry agree that these are hallmarks of high risk for money laundering. Therefore, although the impact will be significant on a certain number of sellers, those sellers make up less than 1% of the population.

The remaining 99% of retailers will be required to implement reasonable policies and procedures to ensure that they do not sell more than $10,000 of prepaid access devices to any one person in any one day. These procedures should be commensurate with the institution's level of risk.

C. Certification

As discussed above, the final rule will affect two separate populations of small entities. Of the population of providers of prepaid access, the final rule will affect an estimated 700 providers of prepaid access, 93% of which are considered small entities. FinCEN estimates that the impact of the requirements will increase the annual payroll between .3% and .8% overall. FinCEN believes that this is not a significant impact.

Of the population of sellers of prepaid access, the final rule will impact 70,000. The impact on 99% of these sellers will be insignificant. The only significant impact that FinCEN expects the final rule to have is on those sellers of prepaid access that sell certain products that are highly susceptible to criminal activity. As discussed above, FinCEN estimates that the population of entities that sell these products is less than 1% of all sellers.

Accordingly, FinCEN certifies that the rule will not have a significant impact on a substantial number of small entities.

V. Paperwork Reduction Act Notices

The collections of information contained in this rule have been approved by the Office of Management and Budget (''OMB'') for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control numbers 1506–0013, 1506–0015, 1506–0020, 1506–0052, 1506–0056, and 1506–0058.

A. AML Program for Providers and Sellers of Prepaid Access

Anti-money laundering programs for money services businesses (31 CFR 1022.210). OMB Control Number: 1506–0020.

This information is required to be retained pursuant to 31 U.S.C. 5318(h) and 31 CFR 1022.210. The collection of information is mandatory.

The information collected pursuant to 31 CFR 1022.210(c) will be used by examiners to determine whether providers of prepaid access comply with the BSA. By defining providers and sellers of prepaid access as MSBs, the rule will increase the estimated number of entities by 1400. However, by removing issuers, sellers, and redeemers of stored value from the definition of MSB, the rule will reduce the estimated number of entities by 10,000. Overall, the rule will decrease the number of entities that collect information under 31 CFR 1022.210(c) by 8600.

Description of Recordkeepers: MSBs as defined in 31 CFR 1010.100(ff)(4) and (7).

Estimated Number of Recordkeepers: The rule decreases the number of recordkeepers by 8600.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1022.210(c) is one hour.

Estimated Total Annual Recordkeeping Burden: The current burden will be reduced by 10,000 hours and increased by 1,400 hours, for a net decrease to the current burden of 8600 hours.

B. Customer Identification Requirement for Providers and Sellers of Prepaid Access

The information collected pursuant to 31 CFR 1022.210(d) will be used by law enforcement agencies in the enforcement of criminal and regulatory laws. The rule affects an estimated 1400 providers and sellers of prepaid access. The rule requires two minutes of collection burden per issuance of prepaid access device or vehicle.

Description of Recordkeepers: MSBs as defined in 31 CFR 1010.100(ff)(4) and (7).

Estimated Number of Recordkeepers: The rule increases the number of recordkeepers to 1400.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1022.210(d) is two minutes per issuance of a prepaid access device or vehicle. At any given moment, there are

[50] FinCEN received comments that stated the existence of products in amounts over $1,000 that can be used prior to customer identity verification is rare and these products would be issued by foreign banks instead as debit cards. FinCEN reviewed BSA information and conducted industry specific research to determine that virtually all reloadable prepaid cards that are purchased in the United States are associated with a major payment processor or domestic bank and require customer verification before the product can be used in amounts above $1,000. FinCEN also received comments that the international use of prepaid products issued in the United States is less than 1% of all use. Therefore, although FinCEN is unable to determine an exact number of businesses that sell these high-risk products, FinCEN estimates that it is less than 1% of all sellers.

an estimated 7.5 million network branded prepaid cards in the marketplace. FinCEN estimates that the average lifespan of a prepaid card is three years. Therefore, FinCEN estimates that there are 2.5 million new prepaid cards or other devices or vehicles issued each year that are covered by the rule.

Estimated Total Annual Recordkeeping Burden: The burden will be 83,300 hours. OMB Control Number: 1506–0020.

C. SAR Filing for Providers and Sellers of Prepaid Access

Suspicious activity reports for money services businesses (31 CFR 1022.320). OMB Control Number: 1506–0015.

This information is required to be provided pursuant to 31 U.S.C. 5318(g) and 31 CFR 1022.320. This information will be used by law enforcement agencies in the enforcement of criminal and regulatory laws and to prevent money services businesses from engaging in illegal activities. The collection of information is mandatory. The rule will increase the number of recordkeepers by 1400.

Description of Recordkeepers: MSBs as defined in 31 CFR 1010.100(ff)(4) and (7).

Estimated Number of Recordkeepers: Providers of prepaid access will be required to file SARs. The number of recordkeepers would be increased by 1400.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1022.320 is 90 minutes per report.

Estimated Total Annual Recordkeeping Burden: The rule should increase the estimated annual burden by 289,800 hours.

D. Registration of Providers of Prepaid Access

Registration for money services businesses (31 CFR 1022.380). OMB Control Number: 1506–0013.

This information is required to be provided pursuant to 31 U.S.C. 5330 and 31 CFR 1022.380. The information will be used by law enforcement and regulatory agencies in the enforcement of criminal, tax, and regulatory laws and to prevent money services businesses from engaging in illegal activities. The information will also be valuable to FinCEN, allowing analysts to more accurately quantify the universe of MSBs generally and the universe of providers of prepaid access specifically. The collection of information is mandatory. Providers of prepaid access need to register and list the prepaid programs subject to this final rule; the number of recordkeepers will be increased by 700.

Description of Recordkeepers: Providers of prepaid access as defined in 31 CFR 1010.100(ff)(4).

Estimated Number of Recordkeepers: The number of recordkeepers would be increased by 700 MSBs.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1022.380 is 30 minutes per recordkeeper for the completion, filing, and recordkeeping of registration forms, and an additional 120 minutes for the completion, filing, and recordkeeping of the list of prepaid programs subject to the regulation.

Estimated Total Annual Recordkeeping Burden: We will increase the number of burden hours under this collection by 1,750 hours.

E. Recordkeeping and Retrieval Requirement

Customer and Transactional Data Recordkeeping Requirements (31 CFR 1010.410, 1010.430, 1022.420, and 1022.210). OMB Control Number: 1506–0052.

This information is required to be provided pursuant to Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), 31 U.S.C. 5318(m), and 31 CFR 1010.410, 1010.430, 1022.420, and 1022.210. This information will be used by law enforcement agencies in criminal, tax, and regulatory investigations and proceedings. Prepaid providers will be required to retain information in a format that allows for its retrieval upon request. Both providers and sellers of prepaid access are responsible for the recordkeeping of customer and transactional data that is routinely captured and maintained in the ordinary course of business under the regulation. The number of recordkeepers will be increased by 1400.

Description of Recordkeepers: MSBs as defined in 31 CFR 1010.100(ff)(4) and (7).

Estimated Number of Recordkeepers: The number of recordkeepers would be increased by 1400 MSBs.

Estimated Average Annual Burden Hours per Recordkeeper: The estimated average annual burden associated with the recordkeeping requirement in 31 CFR 1010.410, 1010.430, 1022.420, and 1022.210 is 16 hours per recordkeeper for the maintenance of customer and transactional data that routinely is captured and maintained in the ordinary course of business.

Estimated Total Annual Recordkeeping Burden: We will increase the number of burden hours under this collection by 22,400 hours.

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. Records required to be retained under the Bank Secrecy Act must be retained for five years.

VI. Executive Order 12866 and Executive Order 13563

Executive Orders 13563 and 12866 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 rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by OMB.

VII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), Public Law 104–4 (March 22, 1995), requires that an agency prepare a budgetary impact statement before promulgating a rule that may result in expenditure by the state, local, and Tribal governments, in the aggregate, or by the private sector, of 100 million dollars or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. Taking into account the factors noted above and using conservative estimates of average labor costs in evaluating the cost of the burden imposed by the rule, FinCEN has determined that it is not required to prepare a written statement under section 202.

List of Subjects in 31 CFR Parts 1010 and 1022

Administrative practice and procedure, Banks, Banking, Brokers, Currency, Foreign banking, Foreign currencies, Gambling, Investigations,

Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Authority and Issuance

For the reasons set forth above in the preamble, Chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; Title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; Title V, sec. 503, Pub. L. 111–24.

■ 2. Amend § 1010.100 by:
■ a. Revising paragraph (ff) introductory text;
■ b. Revising paragraph (ff)(2)(ii)(A);
■ c. Revising paragraph (ff)(4);
■ d. Revising paragraph (ff)(5)(ii)(E);
■ e. Adding new paragraph (ff)(7);
■ f. Revising paragraph (ww); and
■ g. Adding new paragraph (kkk) to read as follows.

§ 1010.100 General definitions.

* * * * *

(ff) *Money services business.* A person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities listed in paragraphs (ff)(1) through (ff)(7) of this section. This includes but is not limited to maintenance of any agent, agency, branch, or office within the United States.

* * * * *

(2) * * *

(ii) * * *

(A) A person that sells prepaid access in exchange for a check (as defined in the Uniform Commercial Code), monetary instrument or other instrument;

* * * * *

(4) *Provider of prepaid access*—(i) *In general.* A provider of prepaid access is the participant within a prepaid program that agrees to serve as the principal conduit for access to information from its fellow program participants. The participants in each prepaid access program must determine a single participant within the prepaid program to serve as the provider of prepaid access.

(ii) *Considerations for provider determination.* In the absence of registration as the provider of prepaid access for a prepaid program by one of the participants in a prepaid access program, the provider of prepaid access is the person with principal oversight and control over the prepaid program. Which person exercises ''principal oversight and control'' is a matter of facts and circumstances. Activities that indicate ''principal oversight and control'' include:

(A) Organizing the prepaid program;

(B) Setting the terms and conditions of the prepaid program and determining that the terms have not been exceeded;

(C) Determining the other businesses that will participate in the prepaid program, which may include the issuing bank, the payment processor, or the distributor;

(D) Controlling or directing the appropriate party to initiate, freeze, or terminate prepaid access; and

(E) Engaging in activity that demonstrates oversight and control of the prepaid program.

(iii) *Prepaid program.* A prepaid program is an arrangement under which one or more persons acting together provide(s) prepaid access. However, an arrangement is *not* a prepaid program if:

(A) It provides closed loop prepaid access to funds not to exceed $2,000 maximum value that can be associated with a prepaid access device or vehicle on any day;

(B) It provides prepaid access solely to funds provided by a Federal, State, local, Territory and Insular Possession, or Tribal government agency;

(C) It provides prepaid access solely to funds from pre-tax flexible spending arrangements for health care and dependent care expenses, or from Health Reimbursement Arrangements (as defined in 26 U.S.C. 105(b) and 125) for health care expenses; or

(D) (*1*) It provides prepaid access solely to:

(i) Employment benefits, incentives, wages or salaries; or

(ii) Funds not to exceed $1,000 maximum value and from which no more than $1,000 maximum value can be initially or subsequently loaded, used, or withdrawn on any day through a device or vehicle; and

(*2*) It does not permit:

(i) Funds or value to be transmitted internationally;

(ii) Transfers between or among users of prepaid access within a prepaid program; or

(iii) Loading additional funds or the value of funds from non-depository sources.

* * * * *

(5) * * *

(ii) * * *

(E) Provides prepaid access; or

* * * * *

(7) *Seller of prepaid access.* Any person that receives funds or the value of funds in exchange for an initial loading or subsequent loading of prepaid access if that person:

(i) Sells prepaid access offered under a prepaid program that can be used before verification of customer identification under § 1022.210(d)(1)(iv); or

(ii) Sells prepaid access (including closed loop prepaid access) to funds that exceed $10,000 to any person during any one day, and has not implemented policies and procedures reasonably adapted to prevent such a sale.

* * * * *

(ww) *Prepaid access.* Access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle, such as a card, code, electronic serial number, mobile identification number, or personal identification number.

* * * * *

(kkk) *Closed loop prepaid access.* Prepaid access to funds or the value of funds that can be used only for goods or services in transactions involving a defined merchant or location (or set of locations), such as a specific retailer or retail chain, a college campus, or a subway system.

PART 1022—RULES FOR MONEY SERVICES BUSINESSES

■ 3. The authority citation for part 1022 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307.

■ 4. Amend § 1022.210 by:
■ a. Revising paragraph (d)(1)(i); and
■ b. Adding new paragraph (d)(1)(iv) to read as follows.

§ 1022.210 Anti-money laundering programs for money services businesses.

* * * * *

(d) * * *

(1) * * *

(i) Policies, procedures, and internal controls developed and implemented under this section shall include provisions for complying with the requirements of this chapter including, to the extent applicable to the money services business, requirements for:

(A) Verifying customer identification, including as set forth in paragraph (d)(1)(iv) of this section;

(B) Filing Reports;

(C) Creating and retaining records;

(D) Responding to law enforcement requests.

* * * * *

(iv) A money services business that is a provider or seller of prepaid access must establish procedures to verify the identity of a person who obtains prepaid access under a prepaid program and obtain identifying information concerning such a person, including name, date of birth, address, and identification number. Sellers of prepaid access must also establish procedures to verify the identity of a person who obtains prepaid access to funds that exceed $10,000 during any one day and obtain identifying information concerning such a person, including name, date of birth, address, and identification number. Providers of prepaid access must retain access to such identifying information for five years after the last use of the prepaid access device or vehicle; such information obtained by sellers of prepaid access must be retained for five years from the date of the sale of the prepaid access device or vehicle.

* * * * *

■ 5. Amend § 1022.320 by:

■ a. Revising the first sentence of paragraph (a)(1) to read as follows; and

■ b. Removing paragraph (a)(5).

§ 1022.320 Reports by money services businesses of suspicious transactions.

(a) *General.* (1) Every money services business described in § 1010.100(ff)(1), (3), (4), (5), (6), and (7) of this chapter, shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation.

* * *

* * * * *

■ 6. Amend § 1022.380 by revising paragraph (a)(1) to read as follows:

§ 1022.380 Registration of money services businesses.

(a) *Registration requirement*—(1) *In general.* Except as provided in paragraph (a)(3) of this section, relating to agents, and except for sellers of prepaid access as defined in § 1010.100(ff)(7) of this chapter to the extent that they are not already agents, each money services business (whether or not licensed as a money services business by any State) must register with FinCEN. Each provider of prepaid access must identify each prepaid program for which it is the provider of prepaid access. Each money services business must, as part of its registration, maintain a list of its agents as required by 31 U.S.C. 5330 and this section. This section does not apply to the United States Postal Service, to agencies of the United States, of any State, or of any political subdivision of a State.

* * * * *

■ 7. Add new § 1022.420 to subpart D to read as follows:

§ 1022.420 Additional records to be maintained by providers and sellers of prepaid access.

With respect to transactions relating to providers and sellers of prepaid access described in § 1010.100(ff)(4) and (7) that are subject to the requirements of this chapter, each provider of prepaid access shall maintain access to transactional records for a period of five years. The provider of prepaid access, as defined in § 1010.100(ff)(4), shall maintain access to transactional records generated in the ordinary course of business that would be needed to reconstruct prepaid access activation, loads, reloads, purchases, withdrawals, transfers, or other prepaid-related transactions.

Dated: July 22, 2011.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2011–19116 Filed 7–28–11; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0617]

Drawbridge Operation Regulations; Annisquam River and Blynman Canal, Gloucester, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Blynman (SR127) Bridge across the Blynman Canal, mile 0.0, at Gloucester, Massachusetts. This deviation is necessary to facilitate the 2011 Gloucester Fisherman Triathlon. The deviation allows the bridge to remain in the closed position during this public event.

DATES: This deviation is effective from 7:30 a.m. through 10:30 a.m. on August 7, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0617 and are available online at *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2011–0617 in the docket ID box, pressing enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. John McDonald, Project Officer, First Coast Guard District, telephone (617) 223–8364, *john.w.mcdonald@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Blynman (SR127) Bridge, across the Blynman Canal, mile 0.0, at Gloucester, Massachusetts has a vertical clearance in the closed position of 7 feet at mean high water and 16 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.586.

The waterway supports both commercial and seasonal recreational vessel traffic.

Under this deviation the Blynman (SR127) Bridge may remain in the closed position from 7:30 a.m. through 10:30 a.m. on August 7, 2011, to facilitate a public event, the 2011 Gloucester Fisherman Triathlon. Vessels that can pass under the closed draws may do so at any time.

This deviation is necessary for public safety, to facilitate vehicular traffic management during the 2011 Gloucester Fisherman Triathlon.

In accordance with 33 CFR 117.35(e), the bridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 12, 2011.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2011–19186 Filed 7–28–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0677]

Drawbridge Operation Regulation; China Basin, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Third Street Drawbridge across China Basin, mile 0.0, at San Francisco, CA. The deviation is necessary to allow the public to cross the bridge to participate in the scheduled San Francisco Marathon, a community event. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 7 a.m. to 1 p.m. on July 31, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of the docket USCG–2011–0677 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0677 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, e-mail *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The City of San Francisco requested a temporary change to the operation of the Third Street Drawbridge, mile 0.0, over China Basin, at San Francisco, CA. The Third Street Drawbridge navigation span provides a vertical clearance of 7 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal if at least one hour notice is given as required by 33 CFR 117.149. Navigation on the waterway is recreational.

The drawspan will be secured in the closed-to-navigation position 7 a.m. to 1 p.m. on July 31, 2011, to allow participants in the San Francisco Marathon to cross the bridge during the event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. The drawspan can be operated upon one hour advance notice for emergencies requiring the passage of waterway traffic.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: July 12, 2011.

D.H. Sulouff,

Bridge Section Chief, Eleventh Coast Guard District.

[FR Doc. 2011–19187 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0523]

RIN 1625–AAOO

Safety Zone; Houma Navigation Canal, From Waterway Mile Markers 19.0 to 20.0, Southwest of Bayou Plat, Bank to Bank, Terrebonne Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Houma Navigation Canal, from Waterway Mile Markers 19.0 to 20.0, Southwest of Bayou Plat, bank to bank, Terrebonne Parish, Louisiana. This temporary safety zone is needed to protect the general public, vessels and tows from destruction, loss or injury due to the installation of flood control structures/barriers. Vessels and tows transiting this zone transiting the specified water are required to proceed at slowest safe speed to minimize wake. If necessary, entry into, transit through, mooring, or anchoring within the safety zone during time of enforcement may be prohibited unless authorized by the Captain of the Port, Morgan City or designated representative.

DATES: *Effective Date:* this rule is effective in the CFR from July 29, 2011 until 11:59 p.m., March 14, 2013. This rule is effective with actual notice for purposes of enforcement beginning 12:01 a.m June 27, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0523 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0523 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Ensign (ENS) Nicholas Jones, Coast Guard; telephone 985–857–8507 ext. 232, e-mail *Nicholas.B.Jones@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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 publishing a NPRM would be contrary to public interest due to the amount of notification received by the Coast Guard and the contractually imposed timeline for the installation of flood control structures/barriers. The Coast Guard received notice of the installation timeline in late May and promptly completed its required review and approval of the plan in June, leaving insufficient time to complete the NPRM process before the initial canal operations in June. Additionally, delaying the canal operations will impact L & A Contracting Co. requirements for delivery and

installation by Mar 2013. Therefore, it would be impracticable to publish a NPRM and immediate action is needed to protect the personnel, general public, vessel and tows, and mariners from hazards associated with the installation process.

Under 5 U.S.C. 553(d)(3), based on the contractually imposed timeline and the notification received by the Coast Guard good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The installation timeline presented to the USCG required immediate action and a delayed effective date would be contrary to public interest. Delaying or rescheduling the installation to provide 30 days notice also is impractical because the contractual timelines for beginning delivery and installation of the canal structures/barriers are in June, 2011. By making the rule effective immediately upon publication and enforceable with actual notice upon signature, the delivery and installation of the canal structures/barriers can continue under the applicable contract. Delaying the effective date would be impracticable as immediate action is need to protect the personnel, general public, vessel and tows, and mariners from hazards associated with the installation process.

Basis and Purpose

The Coast Guard received notice and application for the installation of Flood Control Structures/Barriers in the Houma Navigation Canal, from Waterway Mile Markers 19.0 to 20.0, southwest of Bayou Plat, Terrebonne Parish, LA. These structures/barriers are part of a plan to implement storm surge protection identified as Reach F and Segment 1 of Reach G of the Morganza to the Gulf hurricane protection system. The installation of the Flood Control Structures/Barriers requires the staging of equipment along the banks of the Houma Navigation Canal. To protect the general public, vessels and tows from destruction, loss or injury due to the installation, the Coast Guard is establishing a temporary safety zone which will continue through March 14, 2013. Vessels and tows transiting this zone will proceed at slowest safe speed to minimize wake.

Discussion of Rule

The Coast Guard is establishing a temporary Safety Zone in the Houma Navigation Canal, from Waterway Mile Markers 19.0 to 20.0, Southwest of Bayou Plat, bank to bank, Terrebonne Parish, LA. The temporary safety zone will continue through 11:59 p.m., March 14, 2013. Vessels and tows transiting this zone will proceed at slowest safe speed to minimize wake. All work on the project is scheduled to be complete by March 14, 2013.

The installation of the Flood Control Structures/Barriers requires the staging of equipment along the banks of the Houma Navigation Canal. The sequence of construction must allow a minimum of 125 feet for navigation to be open continuously as coordinated and approved by the U.S. Coast Guard and local industry.

The installation process will involve the following activities which are estimated to occur as scheduled, but Broadcast Notice to Mariners and Local Notice to Mariners will be used to inform the public of the safety zone enforcement periods as the project progresses.

Beginning on June 27, 2011, between Houma Navigation Canal Mile Markers 19.0 to 20.0, slowest safe speed to minimize wake will be required by all mariners transiting the zone until installation is completed on March 14, 2013.

During the installation, any anticipated waterway closures, if necessary to assist in the installation process, will be made through Broadcast Notice to Mariners and Local Notice to Mariners. During a closure, vessels and tows may request permission and the necessary restrictions from the Captain of the Port Morgan City, or a designated representative, for passage through the Safety Zone. During a closure, passage through the safety zone will be evaluated on a case-by-case basis.

Mariners should exercise extreme caution when transiting through the construction site and pass at slowest safe speed to minimize wake.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

This rule will only require mariners to proceed at the slowest safe speed to minimize wake while transiting the safety zone and any waterways closures needed to assist in the installation will be made through Broadcast Notice to Mariners and Local Notice to Mariners. Passage during a closure may be requested and will be considered on a case-by-case basis. The impacts on routine navigation are expected to be minimal.

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 through the safety zone June 27, 2011 through March 14, 2013. This safety zone will not have a significant economic impact on a substantial number of small entities because the slowest safe speed to minimize wake is the only requirement through March 14, 2013. Any waterway closures, if necessary to assist in the installation process, will be made through Broadcast Notice to Mariners and Local Notice to Mariners. Passage during a closure may be requested and will be considered on a case-by-case basis.

If you are a small business entity and are significantly affected by this regulation, please contact ENS Nicholas Jones, Marine Safety Unit Houma, at (985) 857–8507 ext. 232.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule establishes a temporary safety zone to protect the public from the dangers associated with construction activity.

An environmental analysis checklist and a categorical exclusion determination will be provided and made available at the docket as indicated in the **ADDRESSES** section.

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. 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. A new temporary § 165.T11–0523 is added to read as follows:

§ 165.T11–0523 Safety Zone; Houma Navigation Canal, From Waterway Mile Markers 19.0 to 20.0, Southwest of Bayou Plat, Bank to Bank, Terrebonne Parish, LA.

(a) *Location.* Houma Navigation Canal, from Waterway Mile Markers 19.0 to 20.0, Southwest of Bayou Plat, bank to bank, Terrebonne Parish, Louisiana.

(b) *Effective date.* This rule is effective June 27, 2011, through March 14, 2013.

(c) *Periods of Enforcement.* This rule will be enforced upon signature through March 14, 2013. The Captain of the Port Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165, subpart C, entry into this zone should be at slowest safe speed to minimize wake unless authorized by the Captain of the Port Morgan City.

(2) Mariners shall transit through the construction site and pass at slowest safe speed to minimize wake.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Morgan City and designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(4) Any anticipated waterway closures will be made through Broadcast Notice to Mariners and Local Notice to

Mariners. During a closure, vessels requiring entry into or passage through the Safety Zone must request permission from the Captain of the Port Morgan City, or a designated representative and passage will be considered on a case-by-case basis. They may be contacted on VHF Channel 11, 13, or 16, or by telephone at (985) 380–5370.

Dated: June 21, 2011.

J.C. Burton,

Captain, U.S. Coast Guard, Captain of the Port Morgan City, Louisiana.

[FR Doc. 2011–19185 Filed 7–28–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0419; FRL–9445–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 Fine Particle Standard for the Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, York, and Reading Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to determine that the Harrisburg-Lebanon-Carlisle (Harrisburg), Johnstown, Lancaster, York, and Reading fine particle ($PM_{2.5}$) nonattainment areas (the Areas) in the Commonwealth of Pennsylvania have attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. These determinations are based upon complete, quality assured, and certified ambient air monitoring data that show the Areas monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS for the 2007–2009 monitoring period. EPA is finding these Areas to be in attainment in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on September 27, 2011 without further notice, unless EPA receives adverse written comment by August 29, 2011. If EPA receives such comments, it will publish a timely withdrawal of the direct final rules in the **Federal Register** and inform the public that the rules will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0419 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2011–0419, Cristina Fernandez, Associate Director, Office of Air Quality Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0419. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gaige, (215) 814–5676, or by e-mail at *gaige.elizabeth@epa.gov.*

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

This supplementary information section is arranged as follows:

I. What actions are EPA taking?
II. What is the background of these actions?
III. What is EPA's analysis of the relevant air quality data?
IV. What are the effects of these actions?
V. Final Action
VI. Statutory and Executive Order Reviews

I. What actions are EPA taking?

In accordance with section 179(c)(1) of the CAA, EPA is determining that the Harrisburg, Johnstown, Lancaster, York, and Reading $PM_{2.5}$ nonattainment areas have attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010 and in accordance with EPA's $PM_{2.5}$ Implementation Rule of April 25, 2007 (72 FR 20664). These determinations are based upon complete, quality assured, and certified ambient air monitoring data from 2007–2009 that show the Areas monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS during this monitoring period.

II. What is the background for these actions?

On July 18, 1997 (62 FR 36852), EPA established a health-based $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of annual mean $PM_{2.5}$ concentrations (hereafter referred to as ''the annual $PM_{2.5}$ NAAQS'' or ''the annual standard''). At that time, EPA also established a 24-hour standard of 65 $\mu g/m^3$ (the ''1997 24-hour standard''). *See* 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Harrisburg, Johnstown, Lancaster, York, and Reading areas were designated nonattainment for the 1997 annual $PM_{2.5}$ NAAQS during this designations process. *See* 40 CFR 81.339. The Harrisburg nonattainment area consists

of Cumberland, Dauphin, and Lebanon Counties. The Johnstown nonattainment area consists of Cambria County and the part of Indiana County which includes the Townships of West Wheatfield, Center, East Wheatfield, and Armagh Borough and Homer City Borough. The Lancaster nonattainment area consists of Lancaster County. The York nonattainment area consists of York County. The Reading nonattainment area consists of Berks County.

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15 μg/m³ based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a 24-hour standard of 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations (the ''2006 24-hour standard''). On November 13, 2009, EPA designated the Harrisburg-Lebanon-Carlisle-York Area, the Johnstown Area, and the Lancaster Area as nonattainment for the 2006 24-hour standard (74 FR 58688). The Air Quality Control Region (AQCR) 151 Northeast Pennsylvania-Upper Delaware Valley Interstate area which includes Berks County (Reading) is designated as attainment for the 2006 24-hour standard (74 FR 58688). In that action, EPA also clarified that the designations for these Areas were attainment for the 1997 24-hour $PM_{2.5}$ standard. Today's actions, however, do not address the 1997 or the 2006 24-hour $PM_{2.5}$ standard.

In response to legal challenges of the annual standard promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded this standard to EPA for further consideration. *See American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (D.C. Circuit 2009). However, given that the 1997 and 2006 annual $PM_{2.5}$ standards are essentially identical, attainment of the 1997 annual standard would also indicate attainment of the remanded 2006 annual standard.

EPA previously made clean data determinations related to the 1997 annual $PM_{2.5}$ NAAQS for each of these Areas pursuant to 40 CFR 51.1004(c). A clean data determination was made for the Harrisburg Area on August 25, 2008 (73 FR 49949) and clean data determinations were made for the Johnstown, Lancaster, York, and Reading Areas on September 25, 2009 (74 FR 48863) and remain in effect.

Under CAA section 179(c), EPA is required to make a determination that a nonattainment area has attained by its attainment date, and publish that determination in the **Federal Register**. The determination of attainment is not equivalent to a redesignation, and the state must still meet the statutory requirements for redesignation in order for the Areas to be redesignated to attainment. Complete, quality assured, certified $PM_{2.5}$ air quality monitoring data recorded in the EPA Air Quality System (AQS) database for 2007 through 2009, show that the Harrisburg, Johnstown, Lancaster, York, and Reading, PA Areas attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date.

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

EPA has reviewed the ambient air monitoring data for $PM_{2.5}$, consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA AQS database for the Harrisburg, Johnstown, Lancaster, York, and Reading nonattainment areas for the monitoring period from 2007 through 2009. On the basis of that review, EPA has concluded that the areas attained the 1997 annual $PM_{2.5}$ NAAQS based on data for the 2007–2009 monitoring period.

Under EPA regulations at 40 CFR 50.7, the annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 μg/m³. The values calculated in accordance with 40 CFR part 50 Appendix N are referred to as design values, and these values are used to determine if an area is attaining the NAAQS. According to the $PM_{2.5}$ implementation rule, the attainment date for these areas is April 5, 2010 and monitoring data from the period 2007 through 2009 is used to determine if the areas attained by April 5, 2010.

EPA's review of the data indicate that the Harrisburg, Johnstown, Lancaster, York, and Reading nonattainment areas attained the annual 1997 $PM_{2.5}$ NAAQS by the applicable attainment date. The data, presented in Tables 1 through 5, are available at *http://www.epa.gov/air/airtrends/values.html* and can be found under the heading: Design Values 2007–2009, $PM_{2.5}$ Design Values.

Table 1 shows the $PM_{2.5}$ design values for each monitor in the Harrisburg Area for the years 2007–2009. All 2007–2009 design values are below 15.0 μg/m³ and all monitors meet the data completeness requirements. Therefore, the Harrisburg Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

TABLE 1—ANNUAL $PM_{2.5}$ VALUES, HARRISBURG AREA

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
Pennsylvania	Cumberland	420410101	13.7	13.0	11.1	12.6
	Dauphin	420430401	14.3	13.2	12.2	13.2
	Lebanon	No monitor				

Table 2 shows the $PM_{2.5}$ design values for each monitor in the Johnstown Area for the years 2007–2009. All 2007–2009 design values are below 15.0 μg/m³ and all monitors meet the data completeness requirements. Therefore, the Johnstown Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

TABLE 2—ANNUAL $PM_{2.5}$ VALUES, JOHNSTOWN AREA

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
Pennsylvania	Cambria	420210011	14.4	13.9	11.9	13.4

TABLE 2—ANNUAL $PM_{2.5}$ VALUES, JOHNSTOWN AREA—Continued

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
	Indiana (part)	No monitor				

Table 3 shows the $PM_{2.5}$ design values for each monitor in the Lancaster Area for the years 2007–2009. All 2007–2009 design values are below 15.0 μg/m³ and all monitors meet the data completeness requirements. Therefore, the Lancaster Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

TABLE 3—ANNUAL $PM_{2.5}$ VALUES, LANCASTER AREA

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
Pennsylvania	Lancaster	420710007	15.4	13.9	12.2	13.8

Table 4 shows the $PM_{2.5}$ design values for each monitor in the York Area for the years 2007–2009. All 2007–2009 design values are below 15.0 μg/m³ and all monitors meet the data completeness requirements. Therefore, the York Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

TABLE 4—ANNUAL $PM_{2.5}$ VALUES, YORK AREA

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
Pennsylvania	York	421330008	15.8	13.6	11.7	13.7

Table 5 shows the $PM_{2.5}$ design values for each monitor in the Reading Area for the years 2007–2009. All 2007–2009 design values are below 15.0 μg/m³ and all monitors meet the data completeness requirements. Therefore, the Reading Area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

TABLE 5—ANNUAL $PM_{2.5}$ VALUES, READING AREA

State	County	Monitor ID	2007 Mean (μg/m³)	2008 Mean (μg/m³)	2009 Mean (μg/m³)	Certified design value 2007–2009 (μg/m³)
Pennsylvania	Berks	420110011	14.3	12.5	10.9	12.6

IV. What are the effects of these actions?

EPA is determining that the Harrisburg, Johnstown, Lancaster, York, and Reading Areas have attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to the CAA section 179(c) to make a determination based on the Areas' air quality data that the Areas attained the standard by the attainment date. Also, since the Harrisburg, Johnstown, Lancaster, York, and Reading Areas have attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date, the Areas are not subject to the consequences of failure to attain.

These actions do not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Harrisburg, Johnstown, Lancaster, York, and Reading Areas will remain nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the areas meet the CAA requirements for redesignation to attainment. Further, these actions do not involve approving maintenance plans for the Areas as required under section 175A of the CAA, nor do they find that the Areas have met all other requirements for redesignation. The designation status of the Harrisburg, Johnstown, Lancaster, York, and Reading Areas will remain nonattainment for the 1997 annual $PM_{2.5}$ NAAQS until such time as EPA determines that the Areas meet the CAA requirements for redesignation to attainment and take action to redesignate the Harrisburg, Johnstown, Lancaster, York, and Reading Areas.

V. Final Action

Pursuant to section 179(c) of the CAA, EPA is determining that the Harrisburg, Johnstown, Lancaster, York, and Reading Areas attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comment.

However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to determine these areas attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date if adverse comments are filed. This rule will be effective on September 27, 2011 without further notice unless EPA receives adverse comment by August 29, 2011. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of these rules and if that provision may be severed from the remainder of the rules, EPA may adopt as final those provisions of the rules that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

A. General Requirements

This action merely makes attainment determinations based on air quality data and does not impose any additional requirements. For that reason, this action:

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

In addition these $PM_{2.5}$ NAAQS attainment determinations do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of these actions must be filed in the United States Court of Appeals for the appropriate circuit by September 27, 2011. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to these direct final rules are encouraged to file a comment in response to the parallel notice of proposed rulemaking for these actions published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of these direct final rules, so that EPA can withdraw these direct final rules and address the comment in the proposed rulemakings. These actions, to determine that the Harrisburg, Johnstown, Lancaster, York, and Reading Areas attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Particulate matter.

Dated: July 18, 2011.:

W.C. Early,

Acting, Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. Section 52.2056 is added to read as follows:

§ 52.2056 Determinations of attainment.

(a) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Harrisburg-Lebanon-Carlisle (Harrisburg) fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Harrisburg $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(b) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Johnstown fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Johnstown $PM_{2.5}$ nonattainment area is not subject

to the consequences of failing to attain pursuant to section 179(d).

(c) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Lancaster fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Lancaster $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(d) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the York fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the York $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(e) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Reading fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Reading $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

[FR Doc. 2011–19143 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1998–0007; FRL–9445–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the State Marine of Port Arthur Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the State Marine of Port Arthur (SMPA) Superfund Site located in Port Arthur, Texas (Jefferson County), from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality, because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1998–0007, by one of the following methods:

- *http://www.regulations.gov:* Follow Internet on-line instructions for submitting comments.
- *E-mail:* Rafael Casanova, *casanova.rafael@epa.gov.*
- *Fax:* 214–665–6660.
- *Mail:* Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; Contact: Rafael A. Casanova (214) 665–7437. 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–AFUND–1998–0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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:

1. U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; Hours of operation: Monday thru Friday, 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Contact: Rafael A. Casanova (214) 665–7437.

2. Port Arthur Public Library; 4615 9th Avenue; Port Arthur, Texas 77642–

5799; Hours of operation: Monday thru Thursday, 9 a.m. to 9 p.m.; Friday, 9 a.m. to 6 p.m.; Saturday, 9 a.m. to 5 p.m.; and Sunday, 2 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733; *telephone number:* (214) 665–7437; *e-mail: casanova.rafael@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 6 is publishing this direct final Notice of Deletion for the State Marine of Port Arthur (SMPA) Superfund Site (Site), from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent for Deletion in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion and the deletion will not take effect. EPA, will as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the SMPA Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to the deletion of all areas and media within the SMPA Superfund Site:

1. EPA has consulted with the state of Texas prior to developing this direct final Notice of Deletion and the Notice of Intent for Deletion co-published in the ''Proposed Rules'' section of the **Federal Register**.

2. EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent for Deletion prior to their publication today, and the state, through the Texas Commission on Environmental Quality, has concurred on this deletion of the Site from the NPL.

3. Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent for Deletion is being published in a major local newspaper, The Port Arthur News. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Deletion of the Site from the NPL.

4. The EPA placed copies of documents supporting the deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

5. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the SMPA Superfund Site from the NPL. A map of the Site, including the aerial extent of the Site proposed for deletion, is available in the deletion docket:

Site Location and History

The SMPA Superfund Site (Site, CERCLIS ID—TXD099801102), a former barge-cleaning operation and municipal landfill, occupied a 17-acre industrial tract of land located approximately 4.5 miles east-northeast of the City of Port Arthur on Old Yacht Club Road on Pleasure Islet. Pleasure Islet is a peninsula located approximately 0.5 miles southwest of the mouth of the Neches River. The Site is bordered by the Palmer Barge Line Superfund Site to the north, by Old Yacht Club Road to the west, by undeveloped property to the south, and Sabine Lake to the east.

Pleasure Islet is a manmade landmass consisting of dredge spoils generated during the construction and maintenance of the Sabine-Neches canal, also called the Intercoastal Waterway. The canal was constructed between 1898 and approximately 1920 in the vicinity of Sabine Lake and the Neches River, between the current Site location and the mainland. Between 1955 and 1957, a portion of the canal along the western side of Pleasure Islet was abandoned, and a new canal was cut along the eastern and southern sides of Pleasure Islet. Pleasure Islet was created when a land bridge was constructed across the abandoned portions of the canal, between the northern tip of Pleasure Island and the mainland. Vehicle access to the Site is limited to a single dirt road starting at the western Site border along Old Yacht Club Road.

Ownership of Pleasure Islet was transferred from the State of Texas to the City of Port Arthur, Texas, in 1955. Development of the islet and the Site began after 1957, following construction of the land bridge across the abandoned portions of the Sabine-Neches Canal. In approximately 1963, the City of Port Arthur began municipal landfill operations in the northern and central portions of the islet. Initially, the landfill consisted of a burn pit in which wastes were incinerated. By December 1969, burn operations were discontinued, and the landfill was used solely for disposal of wastes. Between 1969 and 1972, landfill disposal operations expanded to include the central and northern portions of the Site and the property north of the Site. Between 1972 and 1974, disposal activities were generally concentrated in the northern parts of the islet. In December 1974, the City of Port Arthur closed the landfill in accordance with Texas Department of Health regulations, which required covering the entire landfill with approximately two feet of fine-grained fill material. The cover material is believed to be dredge spoils that originated on the islet. Site operations began about 1973 under the names of State Welding and Marine Works and the Golden Triangle Shipyard. The construction of wastewater impoundments in the northwestern portion of the Site was also reported. The impoundments were reportedly unlined earthen dike areas approximately two acres in size used to store oil and wastewater from barge-cleaning operations. Inspection reports indicate that wastewater from barge-cleaning operations was directed to two aboveground storage tanks and then pumped to the wastewater impoundments. Some of the oil from the tanks was diverted to an old ship, located on the land, that was used as an oil/water separator. Oil from the separator was collected for reuse, potentially on the Site. The Site included the locations of the former wastewater impoundments, waste water treatment facility, tar burn area, above ground storage tank area, maintenance shed area, distillation column, the former location of the Lauren Refining Company Tank Farm area, non-source areas of the Site, sediments, and ground water. The Site is currently being operated by the owner as an industrial property for metal scrapping activities.

The surface water migration pathway was scored as part of the Hazard Ranking System Documentation Record. EPA determined that the Site warranted further investigation to assess the nature and extent of the human health and environmental risks associated with the Site's previous barge-cleaning and landfill activities. The site was proposed to be included on the NPL on March 6, 1998 (63 FR 11340) and made final July 28, 1998 (63 FR 40182).

The EPA's Time Critical Removal Action, completed in August 2001, consisted of the removal and off-site disposal of waste materials, water treatment, oil and water separation, and stabilization and off-site disposal of sludge materials. This Removal Action addressed the materials that posed a risk to human health and ecological receptors.

The investigations of the Site included the locations of the former wastewater impoundments, waste water treatment facility, tar burn area, above ground storage tank area, maintenance shed area, Lauren Refining Company tank farm area, non-source areas of the Site, ground water, and the sediments of Sabine Lake.

Remedial Investigation and Supplemental Remedial Investigation

The objectives of the Remedial Investigation (RI) for the Site were to:

- To determine the nature and extent of contamination known or suspected on-site and off-site locations, and
- To assess the potential human health and ecological risks associated with the Site.

The objectives of the Supplemental Remedial Investigation (SRI) for the Site were to:

- Collect and analyze sediment samples to determine if contaminants in Sabine Lake sediments posed an unacceptable risk to benthic organisms.
- Collect and analyze subsurface soil samples from the wastewater impoundment area to determine if contaminants in the impoundment soil could serve as a potential source of contamination to the ground water and eventually to benthic organisms in the sediments of Sabine Lake.
- Collect and analyze subsurface soil samples from the wastewater impoundment area to determine if contaminants in the impoundment soil posed an unacceptable risk to future onsite construction workers.
- Install and develop monitoring wells at two of the soil boring locations in the wastewater impoundment area for associated ground water sampling.
- Collect and analyze ground water samples to determine if Site ground water is a current or potentially future source of contamination to benthic organisms in Sabine Lake.
- Store, analyze, and properly dispose of any investigation-derived waste that is produced during field activities in support of the Supplemental Remedial Investigation.

The RI scope of work focused on collecting additional information not obtained during previous investigations. The 2001 RI investigation consisted of two sampling events. The first sampling event consisted of collecting sediment samples from off-site locations in Sabine Lake. The second sampling event consisted of collecting soil and ground water samples from on-site locations. The following tasks were completed during the RI:

- Completion of five shallow and six deep borings ranging in depths from 4.0 to 9.0 and 25.0 to 60.0 feet below the ground's surface (bgs), respectively.
- Installation of six ground water monitoring wells.
- Collection of surface soil samples from 87 locations ranging in depth from 0.0 to 6.0 inches bgs.
- Collection of intertidal samples from nine locations ranging in depth from 0.0 to 6.0 inches bgs.
- Collection of sediment samples from 46 locations ranging in depth from 0.0 to 6.0 feet bgs.

The RI analytical results were compared to commercial/industrial protective concentration levels (PCLs) established by the Texas Risk Reduction Program, and where appropriate, to background levels for the Site's contaminants of concern (COCs).

The most frequently detected COCs for all sediment samples collected were metals including arsenic, lead, and mercury. For intertidal sediments, six metals (antimony, arsenic, cadmium, lead, mercury, and selenium) and one semi-volatile organic compound (SVOC, pentachlorophenol) exceeded their respective PCLs. Constituents that

exceeded PCLs for nearshore sediments included six metals (arsenic, barium, beryllium, cadmium, lead, and mercury) and one SVOC (3,3 dichlorobenzidine). Only arsenic, lead, and mercury exceeded PCLs for off-shore sediments.

The most frequently detected COCs for soils were metals including antimony, arsenic, barium, lead, mercury, and silver. These metals consistently exceeded the ^{Gw}Soil PCL (*i.e.,* the soil-to-ground water leaching of COCs to ground water). Based on the distribution of these constituents, their occurrence is most likely a result of the former incineration and landfill operations. In general, the metals were widely distributed across the Site and not limited to the Site's source areas.

Isolated detections of the SVOCs (benzo[a]pyrene, benzo[a]anthracene, benzo[a]fluoranthene, and pentachlorophenol) were reported at relatively low concentrations for on-site soils. Because the SVOC exceedances were only detected at isolated locations, impact from operations on the Site appeared minimal.

Nine constituents including eight metals (antimony, arsenic, barium, beryllium, lead, manganese, silver, and thallium) and one SVOC (pentachlorophenol) exceeded ^{Gw}Soil$_{Ing}$ PCLs (Exposure pathway: soil-to-ground water leaching COCs to ground water). Based on a preliminary comparison of ground water analytical results to Class 3 ground water criteria, no constituents exceeded Class 3 ground water PCLs and it is unrealistic to assume any beneficial use of the shallow ground water. The State of Texas defines ground water resources based on water quality and sustainable well yield. A Class 3 ground water bearing unit is not capable of producing greater than a 150 gallon/day ground water flow with a Total Dissolved Solids content less than 10,000 milligrams/liter.

The SRI included an investigation of the former wastewater impoundments to determine if waste materials were still present that could be a source of contamination to the Sabine Lake sediments. Soil samples were analyzed for metals and SVOCs. The SRI also included the installation of ground water monitoring wells downgradient of the former wastewater impoundments and the collection of sediments samples from Sabine Lake. These samples were also analyzed for metals and SVOCs.

The screening level ecological risk assessment indicates that selenium concentrations in the Site sediments from the SRI may pose a risk to benthic invertebrates; however, the selenium concentrations are within one order of magnitude of the primary effects screening level. Furthermore, results from the soils and ground water data do not indicate that a selenium pathway exists from the Site to the sediments as the potential source of selenium contamination. Therefore, the EPA has determined that no Remedial Action is warranted for the Site soils to prevent contamination of the Site sediments. Based on selenium concentrations in the sediments, no Remedial Action is warranted for the Site sediments to protect ecological receptors.

Selected Remedy

Based on the results of the Baseline Human Health Risk Assessment (BHHRA) and Screening Level Ecological Risk Assessment (SLERA), the EPA's Selected Remedy for the SMPA Superfund Site, identified in the April 2007 Record of Decision, was ''No Further Action is Necessary.'' Institutional controls will be required to ensure that the current and future use of the Site remains for industrial or commercial purposes. The ''No Further is Action Necessary'' remedy is based on an industrial/commercial land use scenario.

Remedial Action Objectives

The Remedial Action Objectives (RAOs) for the Site are based on the future redevelopment of the Site for industrial/commercial land use and protecting future industrial/construction workers and ecological receptors. The RAOs for the Site were:

- Prevent exposure to contaminated soil/sediment via ingestion, inhalation, or dermal contact that would result in an excess carcinogenic risk of 1.0×10^{-5} or a Hazard Index of 1.0.
- Prevent exposure of contaminated soil/sediment to aquatic or terrestrial organisms via direct contact or indirect ingestion of bioaccumulative chemicals that would result in a Hazard Quotient of 1.0.
- Prevent or minimize migration of soil contaminants to ground water.
- Prevent or minimize further migration of soil and sediment contaminants to surface water that could result in exceedance of ambient water quality criteria.

Response Actions

Based on the results of the BHHRA and SLERA, the EPA's Selected Remedy for the SMPA Superfund Site was ''No Further Action is Necessary.'' The EPA has obtained a Restrictive Covenant from the landowner indicating that the future use of the property is restricted to commercial/industrial purposes. The Restrictive Covenant was filed in the appropriate property records at the County Clerk's office in Jefferson County on March 25, 2011.

Cleanup Goals

The cleanup goals, accomplished by the 2001 Time Critical Removal Action, included the removal, treatment, and off-site disposal of the liquids and sludges in the above ground storage tanks and drums. There were no cleanup goals selected in the Record of Decision.

Five-Year Reviews

Since remaining conditions at the Site will not allow for unlimited use and unrestricted exposure, a Five-Year Review must be conducted for the Site to ensure that future Site development is consistent with the industrial cleanup standards for which the remedy is based and that conditions remain protective of human health and the environment. As part of the Five-Year Review, sediment sampling and monitoring will be considered in Sabine Lake adjacent to the Site to ensure that the remedy remains protective of ecological receptors. The EPA will conduct a statutory review before April 2012.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which the EPA relied on for recommendation for the deletion from the NPL are available to the public in the information repositories, and a notice of availability of the Notice of Intent for Deletion has been published in The Port Arthur News to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

Determination That the Criteria for Deletion Have Been Met

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. The EPA, in consultation with the State of Texas (through the Texas Commission on Environmental Quality), has determined that based on the results of the BHHRA and SLERA and the completion of the EPA's Time Critical Removal Action that addressed contamination at the Site that posed a risk to human health and the environment, the EPA's Selected Remedy for the SMPA Superfund Site was ''No Further Action is Necessary.'' The EPA has implemented all appropriate response actions required; no further response action by responsible parties is appropriate; and the RI, SRI, BHHRA, and SLERA have

shown that the release poses no significant threat to public health or the environment under a commercial/industrial land use scenario and, therefore, the taking of additional remedial measures is not appropriate. EPA received a letter, dated May 25, 2011, from the State of Texas, through the Texas Commission on Environmental Quality, concurring on the deletion of the SMPA Superfund Site from the NPL.

V. Deletion Action

The EPA, with concurrence of the State of Texas, through the Texas Commission on Environmental Quality, has determined that all appropriate response actions under CERCLA, other than Five-Year Reviews, have been completed. Therefore, EPA is deleting the SMPA Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 22, 2011.

Al Armendariz,

Regional Administrator, Region 6.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''State Marine of Port Arthur, Jefferson County, TX.''

[FR Doc. 2011–19270 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0003; FRL–9445–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Palmer Barge Line Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is publishing a direct final Notice of Deletion of the Palmer Barge Line (PBL) Superfund Site located in Port Arthur, Texas (Jefferson County), from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality, because EPA has determined that all appropriate response actions at these identified parcels under CERCLA, other than Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2000–0003, by one of the following methods:

- *http://www.regulations.gov:* Follow Internet on-line instructions for submitting comments.
- *E-mail:* Rafael Casanova, *casanova.rafael@epa.gov.*
- *Fax:* 214–665–6660.
- *Mail:* Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; Contact: Rafael A. Casanova (214) 665–7437. 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–AFUND–2000–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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:

1. U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue,

Suite 700; Dallas, Texas 75202–2733; Hours of operation: Monday thru Friday, 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Contact: Rafael A. Casanova (214) 665–7437.

2. Port Arthur Public Library; 4615 9th Avenue; Port Arthur, Texas 77642–5799; Hours of operation: Monday thru Thursday, 9 a.m. to 9 p.m.; Friday, 9 a.m. to 6 p.m.; Saturday, 9 a.m. to 5 p.m.; and Sunday, 2 p.m to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733; *telephone number:* (214) 665–7437; *e-mail: casanova.rafael@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 6 is publishing this direct final Notice of Deletion for the Palmer Barge Line (PBL) Superfund Site (Site), from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in § 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent for Deletion in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion and the deletion will not take effect. EPA, will as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the PBL Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to all areas and media within the PBL Superfund Site:

(1) EPA has consulted with the state of Texas prior to developing this direct final Notice of Deletion and the Notice of Intent for Deletion co-published in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the state 30 working days for review of this notice and the parallel Notice of Intent for Deletion prior to their publication today, and the state, through the Texas Commission on Environmental Quality, has concurred on this deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent for Deletion is being published in a major local newspaper, The Port Arthur News. The newspaper announces the 30-day public comment period concerning the Notice of Intent for Deletion of the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent for Deletion and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the PBL Superfund Site from the NPL. A map of the Site, including the aerial extent of the Site proposed for deletion, is available in the deletion docket:

Site Location and History

The PBL Superfund Site (Site, CERCLIS ID—TXD068104561), a former barge-cleaning operation, encompasses approximately 17 acres and is located approximately 4.5 miles east-northeast of the City of Port Arthur on Old Yacht Club Road on Pleasure Islet. Pleasure Islet is a peninsula located approximately 0.5 miles southwest of

the mouth of the Neches River. The Site is bordered by vacant property to the north, by Old Yacht Club Road to the west, by the State Marine of Port Arthur Superfund Site to the south, and Sabine Lake to the east.

Pleasure Islet is a manmade landmass consisting of dredge spoils generated during the construction and maintenance of the Sabine-Neches canal, also called the Intercoastal Waterway. The canal was constructed between 1898 and approximately 1920 in the vicinity of Sabine Lake and the Neches River, between the current Site location and the mainland. Between 1955 and 1957, a portion of the canal along the western side of Pleasure Islet was abandoned, and a new canal was cut along the eastern and southern sides of Pleasure Islet. Pleasure Islet was created when a land bridge was constructed across the abandoned portions of the canal, between the northern tip of Pleasure Island and the mainland. Vehicle access to the Site is limited to a single dirt road starting at the western Site border along Old Yacht Club Road.

The Site, along with the adjacent properties to the north and south, were used as a Municipal Landfill for the City of Port Arthur from 1956 to 1987. Although disposal at the landfill has long since ceased and the landfill contents have been covered with dredged sediments, the contents are still present on the Site in the subsurface soils.

In April 1982, John Palmer, President of Palmer Barge Line Inc. purchased approximately 17 acres from the City of Port Arthur, for the purpose of servicing and maintaining barges and marine vessels. The company ceased operations on the property in July 1997.

During operation, the typical activities performed at the Site included cleaning, degassing, maintenance, and inspection of barges and other marine equipment. Cleaning operations included the removal of sludge and other residual material by pressure steaming the vessel holds, engines and boilers. Engines were degreased and accumulations of sludges were removed. Degassing activities involved the removal of explosive vapors from vessel holds using nitrogen or boiler exhaust. Maintenance and inspection activities included the replacement and/or repair of valves, engine repairs, and line leak repairs followed by pressure tests. A flare was located on-site to burn excess gases and liquids produced during facility operations.

The surface water migration pathway was scored as part of the Hazard Ranking System Documentation Record. The EPA determined that the Site warranted further investigation to assess the nature and extent of the human health and environmental risks associated with the Site's previous barge-cleaning and inspection activities. The Site was proposed to be included on the NPL on May 11, 2000 (65FR30489), and made final on July 27, 2000 (65FR46096).

EPA conducted a Time Critical Removal Action in August 2000 that addressed the source materials stored on-site. Removal activities included waste removal, water treatment, oil/water separation, and sludge stabilization. Approximately 250,000 gallons of water were treated on-site; 500 cubic yards of sludge were stabilized; and 100,000 gallons of oil/styrene were separated and removed from the Site.

The investigations of the Site included the wastewater aboveground storage tank (AST), boiler house ASTs, open top slop tanks area, horizontal ASTs, twelve ASTs area, flare area, area east of flare in the center of the Site, ground water, and sediments of Sabine Lake.

Remedial Investigation and Feasibility Study

On September 30, 2002, the EPA issued an Administrative Order on Consent (AOC) to the potentially responsible parties (PRPs) to conduct a Remedial Investigation and Feasibility Study (RI/FS). The objectives of the RI/FS were to characterize the nature and extent of constituents of concern in soil, ground water, and surface water and sediments of Sabine Lake.

Constituents detected in soil samples included metals, semivolatile organic compounds (SVOCs), volatile organic compounds (VOCs), polychlorinated biphenyls (PCBs), and pesticides. Several samples containing above background concentrations of metals and SVOCs were from samples collected in soil that contained municipal waste, indicating that some constituents present may not be due to activities from the barge cleaning operation.

There is no current or anticipated future use of the shallow groundwater at the Site. The shallow groundwater at the Site is not considered a potential drinking water source. The shallow groundwater resulted from the dredging activities that formed the isle where the former PBL Superfund Site is located. Ground water samples collected from permanent ground water monitoring wells installed downgradient of the Site did not contain significant concentrations of these Site-related constituents above risk-based levels.

Constituents detected in the sediments of Sabine Lake included polycyclic aromatic hydrocarbons and metals. Many of the constituents found in the soil at the Site were not detected in sediment samples. Surface water samples contained only metals at low concentrations.

The human health risk assessment concluded that contaminants were present in site soils and sediments that presented an unacceptable risk to on-site workers and off-site recreational anglers. The screening level ecological risk assessment concluded that site contaminants did not present an unacceptable risk to ecological receptors.

A total of four alternatives were developed for the Site during the Feasibility Study. The EPA chose excavation and off-site disposal as the Selected Remedy for the contaminated soils at the Site.

Selected Remedy

Based on the results of the Baseline Human Health Risk Assessment (BHHRA) and Screening Level Ecological Risk Assessment (SLERA), the EPA's Selected Remedy for the PBL Superfund Site, identified in the September 2005 Record of Decision, was ''Excavation and Off-Site Disposal.'' The Selected Remedy consisted of the following components:

- Excavation of approximately 1,204 cubic yards of the upper two feet of soil that exceed human health and ecological risk-based levels at each of the response areas.
- Confirmation sampling for constituents of potential concern at each of the response areas.
- Backfilling of excavated areas with clean soil.
- Off-site disposal of the excavated soils at a permitted disposal facility.
- Implementation of institutional controls to restrict future land use only for industrial purposes. The ICs shall be a restrictive covenant by the property owner recorded in the real property records of Jefferson County, Texas.
- Abandonment of five existing ground water monitoring wells.
- Wastewater AST sludge removal and decontamination and off-site disposal.

Remedial Action Objectives

The Remedial Action Objectives (RAOs) for the Site are based on the following:

- The reasonable anticipated land use scenario is based on the future redevelopment of the Site for industrial or commercial use, consistent with

current Site use and surrounding land use.

• Potential ecological risks were considered for Site soils to prevent exposure to ecological receptors and prevent surface runoff of contaminants to Sabine Lake sediments.

The RAOs for the Site were:

• Prevent direct contact, ingestion, and inhalation of surface soils that exceed human health risk-based levels, based on an industrial worker scenario, for the chemicals of concern (COCs).

• Prevent off-site migration of COCs to Sabine Lake sediments that exceed human health and ecological risk-based levels for the COCs.

• Prevent exposure to Site soils that may pose a risk to ecological receptors.

Response Actions

On May 7, 2007, the EPA issued a Unilateral Administrative Order (UAO) for Remedial Design and Remedial Action to the PRPs. The UAO became effective on June 6, 2007. The Final Remedial Design/Remedial Action Work Plan was approved by the EPA on August 2, 2007. A total of 181 tons of contaminated soils were excavated and disposed at a permitted disposal facility. Each response area was then backfilled with clean soil. The Record of Decision (ROD) required the collection of confirmation samples, including analyses for the constituents of potential concern, at each of the response areas. Analytical results were used to determine horizontal limits of impacted media in each of the response areas. If constituents were found to contain concentrations in excess of the remediation goals (RG), step-out samples were analyzed for those constituents. Additional step-out samples were collected and analyzed when the step-out samples exceeded the RG. This process continued until sample results for perimeter samples were below the RG, indicating horizontal delineation had been achieved according to the requirements of the ROD. Additionally, approximately 78,340 pounds of oil were skimmed from the 10,000-barrel AST and recycled for fuel blending, and approximately 854,886 pounds of the remaining sludge material within the AST were incinerated. As required by the 2005 ROD, five permanent ground water monitoring wells were plugged and abandoned.

An institutional control (IC) in the form of Restrictive Covenant by the property owner, to the benefit of the State of Texas and the United States Government, was filed in the appropriate property records at the County Clerk's office in Jefferson County on March 25, 2011. This IC ensures that future site use remains commercial/industrial.

Cleanup Goals

The EPA chose a 1.0×10^{-5} target cleanup goal based on exposure to COCs that exceeded those levels at surface soils. The COCs and the selected soil cleanup goals achieved for the Human Health Risk Areas were:

• Aldrin—1.1 milligrams/kilogram (mg/kg).
• Benzo(a)pyrene—2.3 mg/kg.
• Benzo(a)anthracene—23.0 mg/kg.
• Dieldrin—1.2 mg/kg.
• Heptachlor Epoxide—2.1 mg/kg.
• Naphthalene—210.0 mg/kg.
• Pentachlorophenol—100.0 mg/kg.
• Lead—800.0 mg/kg.

The COCs and the selected soil cleanup goals achieved for ecological receptors were:

• 4,4′-DDD—0.0864 mg/kg.
• 4,4′-DDE—0.0864 mg/kg.
• 4,4′-DDT—0.0865 mg/kg.
• Butyl benzyl phthalate—5.37 mg/kg.
• Lead, total—497.0 mg/kg.
• Methoxychlor—0.09 mg/kg.

Five-Year Reviews

Since the Selected Remedy would result in hazardous substances remaining on-site above levels that allow for unlimited use and unrestricted exposure, a Five-Year Review will be conducted no less often than every five years from initiation of the Remedial Action to ensure that the remedy is, or will continue to be, protective of human health and the environment. The first Five-Year Review will be conducted before September 2012.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k) and CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket which the EPA relied on for recommendation for the deletion from the NPL are available to the public in the information repositories, and a notice of availability of the Notice of Intent for Deletion has been published in The Port Arthur News to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

Determination That the Criteria for Deletion Have Been Met

In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. The EPA has determined that the criteria for deletion have been met. The EPA has implemented all appropriate response actions required and no further response action by responsible parties is appropriate. EPA received a letter, dated May 26, 2011, from the State of Texas, through the Texas Commission on Environmental Quality, concurring on the deletion of PBL Superfund Site from the NPL.

V. Deletion Action

The EPA, with concurrence of the State of Texas, through the Texas Commission on Environmental Quality, has determined that all appropriate response actions under CERCLA, other than Five-Year Reviews, have been completed. Therefore, EPA is deleting the PBL Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective September 27, 2011 unless EPA receives adverse comments by August 29, 2011. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 22, 2011.

Al Armendariz,

Regional Administrator, Region 6.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''Palmer Barge Line, Port Arthur, TX.''

[FR Doc. 2011–19281 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2011–0107]

RIN 2127–AK80

Federal Motor Vehicle Safety Standards; Electric-Powered Vehicles; Electrolyte Spillage and Electrical Shock Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of a final rule issued by this agency on June 14, 2010. This final rule amended the electrical shock protection requirements to facilitate the development and introduction of fuel cell vehicles (a type of electric-powered vehicle) and the next generation of hybrid and battery electric powered vehicles. This document addresses issues raised in the petitions for reconsideration relating to the scope and applicability of the standard, the definitions in the standard, the retention requirements for electric energy storage/conversion systems, the electrical isolation requirements, the test specifications and requirements for electrical isolation monitoring, the state-of-charge of electric energy storage devices prior to the crash tests, a proposed protective barrier compliance option for electrical safety, the use of alternative gas to crash test hydrogen fuel cell vehicles, and a proposed low-energy compliance option for electrical safety.

DATES: The effective date of this final rule is September 1, 2011 with optional early compliance.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than September 12, 2011.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues: Ms. Shashi Kuppa, Office of Crashworthiness Standards (telephone: 202–366–3827) (fax: 202–493–2990), NVS–113.

For legal issues: Mr. Jesse Chang, Office of the Chief Counsel (telephone: 202–366–2992) (fax: 202–366–3820), NCC–112.

The mailing address for these officials is: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background—June 14, 2010 Final Rule

On June 14, 2010, NHTSA issued a final rule which amended the electrical shock protection requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 305, ''Electric-powered vehicles; electrolyte spillage and electrical shock protection,'' to facilitate the development and introduction of fuel cell vehicles, a type of electric-powered vehicle, and the next generation of hybrid and battery electric powered vehicles (75 FR 33515, NHTSA Docket No. 2010–0021). The final rule revised the agency's standard regulating electrolyte spillage and electrical shock protection for electric-powered vehicles to align it more closely with the April 2005 version of the Society of Automotive Engineers (SAE) J1766—''Recommended Practice for Electric and Hybrid Electric Vehicle Battery Systems Crash Integrity Testing.''

This rule also provided greater flexibility by allowing manufacturers to meet the requirements of FMVSS No. 305 by designing their electrically powered vehicles so that, in the event of a crash, the electric energy storage, conversion, and propulsion systems are either electrically isolated from the vehicle's chassis or their voltage is below specified levels considered safe from electric shock hazards. Since the physiological impacts of direct current (DC) are less than those of alternating current (AC), the final rule specified lower electrical isolation requirements for certain DC components (100 ohms/volt) than for AC components (500 ohms/volt).

In addition, the final rule included new definitions, made changes to existing definitions of terms used in the standard, changed the energy storage/conversion device retention requirements, specified a low voltage option for achieving electrical safety, and required monitoring of the isolation resistance of DC high voltage sources that comply with the 100 ohms/volt electrical isolation requirement. The agency also established an effective date on September 1 in the year after the final rule was published (or September 1, 2011) with optional early compliance.

II. Petitions for Reconsideration

Subsequently, NHTSA received petitions for reconsideration of the June 14, 2010 final rule from the Alliance of Automobile Manufacturers (Alliance),[1] Technical Affairs Committee of the Association of International Automobile Manufacturers, Inc. (AIAM)[2] and Honda Motor Co., Ltd. (Honda). Ford Motor Company (Ford) also presented an analysis to the agency in support of the Alliance's petition for reconsideration regarding the issue of electric energy storage system state-of-charge prior to the crash tests specified in the standard.[3] In addition, on December 21, 2010, the Alliance, AIAM, and Honda submitted a joint letter as supplementary information to their petitions for reconsideration stating their support for the definitions used in the draft documents on electrical safety for a forthcoming global technical regulation (GTR) on hydrogen fuel cell vehicle safety.

The petitioners generally sought increased clarity by raising issues

[1] The Alliance is a trade association whose members are: BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors LLC, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, and Volkswagen.

[2] The AIAM petition stated it is a trade association whose Technical Affairs Committee members include: American Honda Motor Co., American Suzuki Motor Corp., Aston Martin Lagonda of North America, Inc., Ferrari North America, Inc., Hyundai Motor America, Isuzu Motors America LLC, Kia Motors America, Inc., Mahindra & Mahindra Ltd., Maserati North America, Inc., McLaren Automotive Ltd., Nissan North America, Inc., Peugeot Motors of America, Subaru of America, ADVICS North America, Inc., Delphi Corporation, Denso International America, Inc., and Robert Bosch Corporation. In January 2011, AIAM was renamed as the Association of Global Automakers (Global Automakers). Nonetheless, our response to petitions of the final rule will still refer to AIAM.

[3] Ford presented an analysis of the state-of-charge of the energy storage system prior to the crash tests in a meeting with NHTSA personnel on May 26, 2010. This presentation was posted to the Docket No. NHTSA–2010–0021 on September 1, 2010.

regarding the definitions, test specifications, and performance requirements in this rule. Specifically, the petitioners raised questions regarding the applicability and scope of the standard, the definitions of terms used, the electric energy storage/conversion system retention requirements, the electrical isolation requirements, the requirements and test specifications for electrical isolation monitoring systems, the electric energy storage device state-of-charge, the protective barrier as a compliance option for electrical safety, and the use of alternative gas for testing hydrogen fuel cell vehicles.

III. Summary of Revisions to the June 14, 2010 Final Rule

This document responds to all the petitions for reconsideration of the June 14, 2010 final rule. Specifically, this final rule makes the following changes to the June 14, 2010 final rule:

- Revises the ''Application'' section to indicate that the standard applies only to vehicles that use high voltage electrical components for propulsion power rather than to any vehicle that has high voltage electrical components.
- Clarifies the definitions used in the June 14, 2010 final rule for electrical isolation, electric energy storage/conversion system, electric energy storage device, propulsion system, and high voltage source.
- Adds further clarity by including new definitions for automatic disconnect, electric energy storage/conversion device, electrical chassis, and electric power train.
- Revises the application of retention requirements from energy storage/conversion ''systems'' to energy storage/conversion ''devices.''
- Clarifies the electric energy storage/conversion device retention requirements to indicate that during and after the test, the device(s) shall remain attached to the vehicle by at least one component anchorage, bracket, or any structure that transfers loads from the device to the vehicle structure and those located outside the occupant compartment shall not enter the occupant compartment.
- Clarifies the electrical safety requirements to specify that AC high voltage sources with electrical isolation monitoring require 500 ohms/volt electrical isolation.
- Specifies the voltage measurement locations for high voltage sources with and without automatic disconnects in the test procedures for determining electrical safety.
- Revises the electrical isolation monitoring requirement by deleting the term ''continuous'' in ''continuous monitoring'' and including a range in resistance of the external resistor selected in the test procedure to evaluate the performance of the monitoring system.
- Clarifies the specification for the state-of-charge of electric energy storage devices before the crash tests to be at the maximum state-of-charge in accordance with the vehicle manufacturer's recommended charging procedures, as stated in the vehicle owner's manual or on a label permanently affixed to the vehicle, or at 95 percent of the maximum capacity of the electric energy storage device if no such recommendation is made.
- Revises the regulatory text and Figures 1–5 to utilize the new terms added to the definitions section.

IV. Agency Response and Rationale

After reviewing the petitions for reconsideration, NHTSA is responding to each issue raised by the petitioners as follows.

a. Application

The June 14, 2010 final rule defined the scope of FMVSS No. 305 by stating the following in paragraph S3 Application:

> S3. Application. This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks, and buses that have a GVWR of 4,536 kg or less, that use electrical components with working voltages more than 60 volts direct current (VDC) or 30 volts alternating current (VAC), and whose speed attainable over a distance of 1.6 km on a paved level surface is more than 40 km/h.

Both the Alliance and the AIAM noted that in section ''S3 Application'' of the final rule, the agency omitted the word ''propulsion'' and that this was not consistent with the language in the NPRM.[4] Both organizations argued that the omission of the word ''propulsion'' could be interpreted to encompass all electrical systems that are not within the scope of FMVSS No. 305 (*e.g.* high intensity discharge (HID) headlamps, engine ignition systems, fuel injectors, *etc*).

The Alliance proposed that the scope be remedied by adding the word ''propulsion'' in the application section, S3. The AIAM indicated in its petition that it supported the language proposed by the Alliance. The language proposed by the Alliance is as follows:

> S3 Application. This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg or less, that use electrical *propulsion* components with working voltages more than 60 volts direct current (VDC) or 30 volts alternating current (VAC), and whose speed attainable over a distance of 1.6 km on a paved level surface is more than 40 km/h. (emphasis in the original)

NHTSA's Response: We agree with the Alliance that by omitting the word ''propulsion'' in S3 of the final rule, the standard encompasses vehicles and electrical systems that were not intended for application of FMVSS No. 305. Since the agency is not aware of any cases of injuries/fatalities from shock in non-electrically powered vehicles with other high voltage components such as HID headlamps, ignition systems, or fuel injectors, this final rule adopts the language for S3 Application as proposed by the Alliance. This new version of the regulatory text ensures that FMVSS No. 305 will not extend to the aforementioned vehicles and vehicle components for which the standard was not intended to apply.

b. Definitions

The June 14, 2010 final rule adopted new definitions into FMVSS No. 305. In a joint letter submitted by the Alliance, AIAM, and Honda, the organizations acknowledged that while the current FMVSS No. 305 definitions were based on SAE J1766, the subsequent promulgation of FMVSS No. 305 and the development of an international GTR on hydrogen fuel cell vehicle safety have largely rendered aspects of the SAE standard obsolete. The organizations requested that the agency incorporate, into FMVSS No. 305, the definitions contained in the draft electrical safety requirements developed by the Electric Safety (ELSA) working group in September 2010 as part of the draft GTR. Given this request from the aforementioned organizations, the rapid development of technology in electrical and fuel cell vehicles resulting in numerous changes in terminology and their associated definitions, and significant uncertainty among the relevant stakeholders as to the proper interpretation of many of the definitions adopted by the June 14, 2010 final rule, today's final rule seeks to clarify and update many of the definitions through additional language and/or adopting similar language from the draft ELSA electrical safety document (henceforth referred to as the ELSA document) where appropriate.[5] In the following

[4] 72 FR 57266; Notice of Proposed Rulemaking; October 9, 2007.

[5] Electrical Safety Provisions for Vehicles Post Crash ELSA–8–05 Rev. 01 (Draft agreed during 8th ELSA Meeting, Aug 31–Sept 2, 2010) *http://www.unece.org/trans/doc/2010/wp29grsp/ELSA-8-05r1e.pdf.*

sections, we will address each of the definitions added or amended by today's final rule in turn.

1. Automatic Disconnect

One appropriate area for adopting similar language from the ELSA document is the definition for ''automatic disconnect.'' Since the June 14, 2010 final rule did not define ''automatic disconnect,'' the agency is concerned that it may result in ambiguity regarding the location of voltage measurements taken pursuant to paragraph S7.6.1 (as further discussed later in this document). Therefore, today's final rule includes a definition for automatic disconnect, derived from the ELSA document, which states that ''automatic disconnect'' means a device that when triggered, conductively separates a high voltage source from the electric power train or the rest of the electric power train.

2. Electrical Isolation

In the final rule, we defined ''Electrical isolation'' as ''the electrical resistance between the vehicle high voltage source and any vehicle conductive structure.'' The Alliance stated that the definition for ''electrical isolation'' as defined in the final rule could present difficulties because ''any vehicle conductive structure'' could be interpreted to include the high voltage source itself, and a high voltage source cannot be isolated from itself. The Alliance, therefore, petitioned to revise the definition so that the electrical isolation is between the vehicle high voltage source and the ''vehicle chassis electricity-conducting structure.''

NHTSA's Response: The agency agrees that that the language ''any conductive structure'' should be clarified to indicate which vehicle components are required to be isolated from the high voltage source. However, we decline to adopt the Alliance's proposed term, ''vehicle chassis electricity-conducting structure,'' since it also lacks sufficient clarification on which vehicle components will be included by this term. For example, it is unclear whether the term includes other conducting structures in the vehicle such as the enclosures of high voltage sources. To address this issue, this final rule clarifies what the high voltage source is electrically isolated from by including a definition for a new term that has been proposed in the draft ELSA document. Based on the language of the ELSA document, a definition for ''electrical chassis'' is included in today's final rule as follows:

Electrical chassis means conductive parts of the vehicle whose electrical potential is taken as reference and which are: (1) conductively linked together, and (2) not high voltage sources during normal vehicle operation.

Since this definition of electrical chassis includes vehicle designs with multiple electrical chassis, this final rule clarifies the definition of electrical isolation to mean the electrical resistance between a given high voltage source and any electrical chassis of the vehicle. Further, in order to be consistent with the manner in which electrical isolation is determined in S7.6.6 and S7.6.7 of the electrical isolation test procedure and with the units of electrical isolation specified in S5.3(a), today's final rule also clarifies the definition of electrical isolation of a high voltage source to mean the electrical isolation resistance of the high voltage source divided by the working voltage of the high voltage source. Applying these corrections, along with the new definition of electrical chassis, today's final rule amends the definition for electrical isolation to read as follows:

Electrical isolation of a high voltage source in the vehicle means the electrical resistance between the high voltage source and any of the vehicle's electrical chassis divided by the working voltage of the high voltage source.

The agency believes the changes made in today's final rule address the Alliance's concern about the broad term ''any vehicle conductive structure.'' Specifically, this definition ensures that the term ''vehicle conductive structure'' is not construed to include the high voltage source itself as the new definition for ''electrical chassis'' explicitly excludes high voltage sources. In addition, the use of these definitions more closely aligns FMVSS No. 305 with the definitions proposed by the ELSA working group and clarifies what types of components would be considered part of the chassis. For example, under these definitions, the electrical chassis includes the enclosures of the high voltage sources which are conductively linked to other conductive parts of the vehicle whose electrical potential is taken as a reference.

3. Electric Energy Storage/Conversion/Power Generating System & Electric Energy Storage Device

Before the NPRM in this current rulemaking, FMVSS No. 305 contained a definition for the term ''Battery system component.'' In the NPRM, the agency proposed replacing the definition of ''Battery system component'' with ''Energy storage system.'' The agency changed the definition in the final rule after considering the joint Alliance/AIAM comment to the NPRM to include ''energy conversion system'' as part of the definition for ''Energy storage system.'' In their comment, the Alliance/AIAM stated that fuel cell systems were conversion systems and should also comply with the retention requirements. NHTSA agreed and redefined ''Energy storage system'' as ''Electric energy storage/conversion/power generating system.'' The term ''power generating system'' was also included to align FMVSS No. 305 more closely with the terminology used in SAE J1766. Thus, the June 14, 2010 final rule defined ''Electric Energy Storage/Conversion/Power Generating System'' as follows:

Electric energy storage/conversion/power generating system means the components comprising, but not limited to, the vehicle's high voltage battery system, capacitor system, or fuel cell system, and rechargeable energy storage systems. These include, but are not limited to, the battery or capacitor modules, interconnects, venting systems, battery or capacitor restraint devices, and electric energy storage boxes or containers that hold the individual battery or capacitor modules. Hydrogen system components of fuel cell vehicles, such as the hydrogen tanks and hydrogen tubes, are not included in the electric energy storage/conversion system.

We received multiple petitions requesting that the agency reconsider the ''Electric energy storage/conversion/power generating system'' definition. The Alliance stated that this definition is overly broad and includes energy storage systems beyond those used for propulsion power. The Alliance recommended that the definition be modified to utilize the following text: Electric energy storage/conversion/power generating system ''*means the electric energy sources for the propulsion* system comprising, but not limited to, the vehicle's high voltage battery system * * *'' (emphasis in original).

The AIAM and Honda had further concerns about the definition. The AIAM stated that the definition is not used consistently throughout the standard or even within the definition itself. For example, the AIAM noted that the last sentence of the definition for electrical energy storage/conversion/power generating system (which refers to hydrogen system components of fuel cell vehicles) is only applicable to the electric energy storage or conversion system parts of the definition and not to the power generating system portion. Honda stated that the combined definition may cause confusion to the reader.

Further, both the AIAM and Honda stated that various requirements in

FMVSS No. 305 apply only to portions of the electric energy storage/conversion/power generating system definition, creating confusion regarding the applicability of various requirements in the standard. The AIAM and Honda refer to fuel cell modules as an example of this potential confusion. They noted that the retention requirements in S5.2, as written, are applicable only to the electric energy storage system and electric energy conversion system but are not applicable to the electric power generating system. According to SAE J1766 (April, 2005), the term ''power generating system components'' is defined as ''the components comprising the high voltage power generating system in an Electric, Fuel Cell or Hybrid vehicle. These include, but are not limited to, generators, fuel cell modules, DC/DC converters and interconnects.'' The AIAM and Honda stated that if the SAE definition is used to determine the meaning of ''power generating system'' for purposes of S5.2 retention requirements, it could be concluded that fuel cell modules are exempt because S5.2 does not list ''power generating system'' as requiring compliance with the retention requirements. The AIAM and Honda do not believe that the agency intended to exclude fuel cell modules from the retention requirements, considering the potential occupant injury risk in a crash if fuel cell modules became unattached. For clarity, both the AIAM and Honda petitioned that the terms ''Electric energy storage system,'' ''Electric energy conversion system'' and ''Electric power generating system'' be defined separately.

NHTSA's Response: We agree with petitioners that the ''Electric energy storage/conversion/power generating system'' definition should be clarified in order to avoid confusion as to the applicability of various requirements in FMVSS No. 305. In order to accomplish this task, today's final rule utilizes three separate definitions. First, it renames and makes adjustments to the language in the ''Electric energy storage/conversion/power generating system'' definition in order to reference the components that comprise the entire ''Electric energy storage/conversion system.'' Second, today's final rule also adds a new definition for ''Electric energy storage/conversion device'' in order to help distinguish the instances in which the various requirements of FMVSS No. 305 are to apply to an entire system as opposed to only component devices. Finally, this rule also retains the ''Electric energy storage device'' definition with minor revisions in order to clarify the instances in which the test specifications of this rule apply to the electric energy storage devices alone.

The agency also agrees with the Alliance petition that the definition for ''electric energy storage/conversion/power generating system'' should be specific to systems used for vehicle propulsion in order to distinguish them from other electric energy storage systems such as the auxiliary battery that is present on many hybrid/electric vehicles and is currently not subject to the retention requirements since it is typically of low mass and does not pose a safety hazard in the existing fleet. Thus, we have made the appropriate modifications to the three aforementioned definitions to indicate that the devices or components covered by each definition are used for vehicle propulsion.

In order to further add clarity to this definition, this final rule removes the reference to the term, ''power generating systems,'' from the June 14, 2010 final rule definition of ''Electric energy storage/conversion/power generating system.'' As ''power generating systems'' was included in the June 14, 2010 final rule definition in order to more closely align FMVSS No. 305 with the (now obsolete) SAE Standard J1766, the agency believes that there is no longer a purpose for including ''power generating systems'' in the ''Electric energy storage/conversion/power generating system'' definition. Thus, today's final rule simply defines ''Electric energy storage/conversion system.''

In addition, we agree with the AIAM that the last sentence of the ''Electric energy storage/conversion/power generating system'' definition in the June 14, 2010 final rule can cause confusion. We believe that the last sentence of that definition, which states that ''[h]ydrogen system components of fuel cell vehicles, such as the hydrogen tanks and hydrogen tubes, are not included in the electric energy storage/conversion system,'' is superfluous. Thus, in further advancing the goal of clarity in the ''Electric energy storage/conversion system'' definition, we have deleted the aforementioned sentence. Under the definition in today's final rule, fuel cells are a type of energy conversion system and the agency will continue to refer to high voltage batteries, capacitors, and fuel cell systems as ''energy storage/conversion systems.''

Thus, the final rule defines ''Electric energy storage/conversion system'' as follows:

Electric energy storage/conversion system means an assembly of electrical components that stores or converts electrical energy for vehicle propulsion. This includes, but is not limited to, high voltage batteries or battery packs, fuel cell stacks, rechargeable energy storage systems, capacitor modules, inverters, interconnects, and venting systems.

Additionally, today's final rule adds a new definition for ''Electric energy storage/conversion device.'' We take note that the retention requirements of S5.2 of the June 14, 2010 final rule apply to all components that fall under the broader ''Electric energy storage/conversion system'' definition and that petitioners asked for clarification to the ''Electric energy storage/conversion system'' definition, in part, to clarify the specific components that will be subject to the retention requirements of paragraph S5.2. As further discussed later in this document, petitioners are concerned that ''energy storage/conversion systems'' can include interconnects and venting systems that are typically of low mass and need not be included in the retention requirements because they are not a safety risk. Thus, to make this distinction, today's final rule modifies paragraph S5.2 to utilize the definition for ''electric energy storage/conversion device'' and defines this term as follows:

Electric energy storage/conversion device means a high voltage source that stores or converts energy for vehicle propulsion. This includes, but is not limited to, a high voltage battery or battery pack, fuel cell stack, rechargeable energy storage device, and capacitor module.

Today's final rule also retains and amends the definition of ''Electric energy storage device'' from the June 14, 2010 final rule. The June 14, 2010 final rule defined ''Electric energy storage device'' as follows:

Electric energy storage device means a high voltage source that can store energy, such as a battery or capacitor modules.

The term, ''Electric energy storage device,'' is used in the regulatory text to specify the state of charge of electric energy storage devices before the vehicle crash test. While closely related to the term ''Electric energy storage/conversion device,'' it does not encompass conversion devices such as fuel cell stacks. Today's final rule makes minor revisions to this definition in order to add clarity and consistency with the two other definitions discussed in this section by specifying that the electric energy storage devices under consideration are used for vehicle propulsion. Thus, the definition of electric energy storage device in today's final rule is amended as follows:

Electric energy storage device means a high voltage source that stores energy for vehicle propulsion. This includes, but is not limited to, a high voltage battery or battery pack, rechargeable energy storage device, and capacitor module.

Paragraphs S1 and S2 of today's final rule have also been amended to reflect these new definitions.

4. High Voltage Source

The June 14, 2010 final rule included a definition of ''high voltage source'' which is reproduced below:

High voltage source means any electric component that has a working voltage greater than 30 VAC or 60 VDC.

The Alliance stated that in common usage, a ''voltage source'' is a component capable of generating or storing electrical potential energy. It argued that under the current definition, connectors and wiring could be construed as voltage sources even though they are not capable of generating or storing electrical energy. The Alliance petitioned that the definition of ''high voltage source'' be revised to include ''any electric component that is capable of generating or storing a voltage greater than 30 VAC or 60 VDC.''

NHTSA's Response: We agree with the Alliance that the current definition of ''high voltage source'' should be clarified. However, we cannot agree with the petitioner's proposal to limit the definition of high voltage sources to only those components that are capable of generating or storing electrical energy. Through the definition included in the June 14, 2010 final rule, the agency did intend to apply the electrical safety requirements to high voltage components, including wiring and connectors that are part of the vehicle's electric power train to ensure comprehensive electric shock protection.

However, we acknowledge that the definition in the June 14, 2010 final rule may not sufficiently distinguish the components included by the ''high voltage source'' definition from those that are not included. To clarify our intent today's final rule defines a high voltage source as ''any electric component *contained in the electric power train or conductively connected to the electric power train* that has a working voltage greater than 30 VAC or 60 VDC (emphasis added).''

To further clarify this new definition, today's final rule adds a definition for ''electric power train'' stating that it refers to ''an assembly of electrically connected components which includes, but is not limited to, electric energy storage/conversion systems and propulsion systems.'' The definition of ''electrical energy storage/conversion system'' is updated as described above. Further, today's final rule makes minor revisions to the definition of ''propulsion system'' to mean ''an assembly of electric or electro-mechanical components or circuits that propel the vehicle using the energy that is supplied by a high voltage source. This includes, but is not limited to, electric motors, inverters/converters, electronic controllers, and associated wire harnesses and connectors, and coupling systems for charging rechargeable energy storage systems.''

These definitions adopt similar language from the Definitions and the General sections of the ELSA document in order to both address the Alliance, AIAM and Honda's suggestion that the agency adopt the ELSA definitions where appropriate and to more clearly define the components that are included under the definition of ''high voltage source.''

c. Electric Energy Storage/Conversion System Retention

In the NPRM, NHTSA proposed adjusting the ''Battery retention'' requirements of paragraph S5.2 to properly reflect the additional energy storage devices that the updated standard intended to cover. The adjustment to paragraph S5.2 accomplished this goal by proposing to replace the word ''battery'' with the words ''energy storage device'' in S5.2 and adjust other portions of the regulatory text accordingly.

In the final rule, we amended the regulatory text based on the considerations in the NPRM and in response to additional information from a March 9, 2009 interpretation request from Hyundai. Hyundai stated that the requirements of S5.2 allowed a battery module located outside the passenger compartment to become dislodged as long as it does not enter the occupant compartment, while a module that is located within the occupant compartment must simply remain in the location in which it is installed. Hyundai stated that this may not properly address the intent of the standard in some circumstances.[6] It argued that in vehicles such as sport utility vehicles (SUV) or station wagons, a battery module located inside the occupant compartment that moves during impact due to the deformation of the floor but remains firmly attached to its mounting, would technically fail the retention requirement even though it would not pose a projectile hazard.

The agency elected to respond to Hyundai's interpretation request in the June 14, 2010 final rule because the NPRM in this rulemaking had already proposed to amend the language of S5.2. Thus, in the final rule, the agency responded to that interpretation request stating

''The agency agrees that battery modules located inside the occupant compartment technically may move a small amount from the location from which they are installed during the impact tests. The agency also agrees that battery modules located outside the occupant compartment that partially move into the occupant compartment because of structural deformation of the vehicle structure do not impose a projectile hazard provided that they remain attached to the mounting structure.[7] Therefore, the agency concurs that battery modules located outside the occupant compartment should be treated in the same manner as those located inside the occupant compartment, provided that they remain attached to their anchorages.''

Accordingly, the June 14, 2010 final rule revised the regulatory text to read as follows:

S5.2 *Electric energy storage/conversion system retention.* All components of the electric energy storage/conversion system must be anchored to the vehicle. All component anchorages, including any brackets or structures that transfer loads from the component to the vehicle structure, shall remain attached to the vehicle structure at all attachment locations during and after testing performed pursuant to the procedures of S6 of this standard.

In its petition for reconsideration of the June 14, 2010 final rule, the Alliance stated that the final rule's specification that all component anchorages, shall remain attached to the vehicle structure at all attachment locations is an overly broad requirement that goes beyond the intent of assuring that battery system components do not become separated from the vehicle. The Alliance stated that this language could be interpreted as prohibiting a plastic tie-wrap used to position a wiring harness to the vehicle from severing in a crash, a requirement that is neither practicable nor necessary.

The Alliance and the AIAM further stated that some electric energy storage/conversion systems, especially those which are located in the engine compartment are protected from serious damage resulting from the collision by absorbing the energy into deforming or even breaking component mountings. The Alliance stated that this was analogous to other energy management strategies, such as allowing steering

[6] 65 FR 57985, FMVSS No. 305 Final Rule, September 27, 2000.

[7] 75 FR 33523.

columns mountings to deform and break to keep the steering column away from the driver of a vehicle during a severe crash. The Alliance stated that a battery pack could be mounted to the vehicle at a dozen attachment points, and the fact that one of these attachments severs during a crash test would be inconsequential to the secure attachment of the battery pack to the vehicle, yet violate the language of the final rule. The AIAM stated that these system retention provisions may, in some respects, be unnecessarily design restrictive and potentially contrary to the interests of safety because rather than broadly mandating that the battery remain attached to the vehicle, the regulatory text places undue emphasis on the condition of individual anchorages, brackets and structures.

Both the AIAM and Honda further argued that the intent of S5.2 was to ensure that the battery modules would not become unattached and become flying projectiles in a crash or subsequent rollover. Each referenced the September 27, 2000 final rule establishing FMVSS No. 305 [8] where the agency stated, ''We note that the intent of the proposed requirements in S5.2 was to ensure that the battery modules would not become unattached and become flying projectiles in a crash or subsequent rollover.'' The AIAM stated that this regulatory goal is best served by a requirement that broadly focuses on the overall condition of the battery module (whether it remains attached to the vehicle and has not intruded into the passenger compartment) rather than the condition of the individual anchorages.

Finally, the AIAM and Honda also stated that there are many smaller components that paragraph S5.2 in the June 14, 2010 final rule applies to, such as ducts or vents, which may become unattached. They argued that the occupant injury risk from such components of the energy storage/conversion system is very low, given their small mass and that there are no comparable requirements for internal combustion engine (ICE) vehicles. The AIAM and Honda stated that in order to exclude low mass components of the energy storage/conversion system, such as ducts and vents, the retention requirements should apply only to energy storage/conversion devices rather than to energy storage/conversion systems.

Each of the petitioners had different strategies for amending the requirements for electric energy storage/conversion system retention. The Alliance petitioned that in order to avoid unnecessary design limitations while achieving protection from both physical damage and electrical shock, the following language be adopted for S5.2 of FMVSS No. 305:

> ''The following requirements shall be met during and after testing performed pursuant to the procedures of S6 of this standard:
>
> 1. Energy storage/conversion system components shall remain secured to the vehicle, and
>
> 2. For energy storage/conversion system components located outside the passenger compartment, such components shall not enter the passenger compartment airspace.''

The Alliance also requested that if the agency does not agree with the proposed language, the agency revert to the previous language of S5.2.

The AIAM petitioned the agency to amend S5.2 to read as follows:

> ''S5.2 Electric energy storage/conversion device(s) retention. Electric energy storage/conversion devices must remain attached to the vehicle during and after testing performed pursuant to the procedures of S6 of this standard.''

Honda petitioned to amend S5.2 as follows:

> ''S5.2 Electric energy storage/conversion devices(s) retention. The electric energy storage/conversion device(s) must remain attached to the vehicle by anchorages, brackets, or structures that transfer loads from the device(s) to the vehicle structure during and after testing performed pursuant to the procedures of S6 of this standard.''

NHTSA's Response: We agree with the comments from the Alliance, AIAM, and Honda suggesting that the changes to the retention requirement in the June 14, 2010 final rule may be overly broad. We acknowledge that increased crash protection for energy storage/conversion systems can be achieved through the deformation or breaking of certain component mounting/anchorages to absorb the crash energy. We further acknowledge that the language in the June 14, 2010 final rule can be construed to include plastic tie-wraps used to position a wiring harness which are not consequential towards the overall condition of the energy storage/conversion systems.

However, we decline to adopt the regulatory text proposed by petitioners because we are concerned with ensuring that the final standard is clear and objective. Thus, the agency does not believe that the proposed language changes from the AIAM and the Alliance are appropriate as they require that the electric energy storage/conversion devices remain attached without offering any specifics on how the agency would distinguish between a device that has ''remained attached'' and one that has not. The regulatory text proposed by Honda offers more information on what constitutes ''remaining attached'' by indicating that the electric energy storage/conversion device must remain attached via ''anchorages, brackets, or structures that transfer loads from the device(s) to the vehicle.'' However, this approach remains unclear as it does not specify how many anchorages, brackets, or structures that transfer load must remain attached.

Thus, today's final rule addresses the considerations of ensuring adequate crash protection, creating an objective standard, and enabling industry designs that utilize anchorages to redirect crash forces by establishing regulatory text which requires that the electric energy storage/conversion devices remain attached to the vehicle by at least one component anchorage, bracket, or any structure that transfer loads from the component to the vehicle structure. Using this regulatory text, the agency can afford the manufacturers the maximum amount of flexibility to utilize the anchorages as a method for redirecting crash forces in their vehicle designs while still ensuring that electric energy storage/conversion devices do not become projectiles which can potentially injure vehicle occupants. Further, the additional regulatory text adds clarity and objectivity to the standard by specifying how the agency will distinguish between devices that have remained attached versus those that have not. Namely, the additional text clarifies that this standard only requires that the electric energy storage/conversion devices maintain a connection to the vehicle structure at one or more load transferring point after it is tested in accordance with the test procedures in S6.

However, since we are not requiring all component anchorages to remain attached to the vehicle at all attachment locations, we believe that the June 14, 2010 final rule's conclusion that there is no need to treat devices inside the occupant compartment differently from those outside the occupant compartment is no longer accurate. While we agree with petitioners that the intent of the retention requirement, as specified in the 2000 final rule, was to ensure that battery modules would not become unattached and become flying projectiles in a crash or subsequent rollover, this is not the only purpose of the retention requirement. One of the purposes of FMVSS No. 305 is to reduce deaths and injuries during and after a crash that occur from the intrusion of electric energy storage/conversion devices into the occupant compartment.

[8] 65 FR 57985.

In the June 14, 2010 final rule, the S5.2 requirement that all component anchorages remain attached to the vehicle structure at all attachment locations ensured that the energy storage/conversion system would not significantly intrude into the occupant compartment.

We recognize that, with the new regulatory text for S5.2 in today's final rule, there may be an increased potential for electric energy storage/conversion devices to partially detach from the vehicle structure and intrude into the occupant compartment. To address this, we are reintroducing the requirement that any electric energy storage/conversion device located outside the occupant compartment not intrude into the occupant compartment. However, we decline to use the term ''passenger compartment airspace'' as suggested by the Alliance. A similar term ''occupant compartment air space'' was defined by the agency in an interpretation letter [9] of FMVSS No. 302, ''Flammability of interior materials.'' Since FMVSS No. 305 addresses safety from electrolyte spillage, electric shock, and intrusion of the energy storage system, and does not address fire safety, the presence of airspace is not relevant and we believe that ''occupant compartment'' is the more appropriate term for paragraph S5.2.

We also agree with Honda and the AIAM that the language of the June 14, 2010 final rule could be interpreted as unintentionally requiring low mass components, such as ducts and vents, to remain attached to the electric energy storage/conversion systems. As previously discussed, today's final rule adds a new definition for ''electric energy storage/conversion device,'' which includes a high voltage battery or battery pack, capacitor modules, fuel cell stacks, and rechargeable energy storage devices used for vehicle propulsion, but does not include low mass components, such as ducts, vents, and wiring harnesses. As the retention requirements of the final rule are amended in today's final rule to apply to the electric energy storage/conversion device rather than to the system, these changes address the concerns raised by the AIAM and Honda by ensuring that the retention requirements do not apply to low mass components.

In conclusion, the regulatory text in paragraph S5.2 has been amended to read as follows:

S5.2 *Electric energy storage/conversion device retention.* During and after each test specified in S6 of this standard:

(a) electric energy storage/conversion devices shall remain attached to the vehicle by at least one component anchorage, bracket, or any structure that transfers loads from the device to the vehicle structure, and

(b) electric energy storage/conversion devices located outside the occupant compartment shall not enter the occupant compartment.

d. Electrical Safety

1. Clarifying the Requirements in Paragraph S5.3

Paragraph S5.3 of the June 14, 2010 final rule requires that each high voltage source in a vehicle must meet the electrical isolation requirements of subparagraph (a) or the voltage level requirements of subparagraph (b) after each test. The subsections state:

(a) The electric isolation between each high voltage source and the vehicle chassis electricity-conducting structure must meet one of the following:

(1) Electrical isolation must be greater than or equal to 500 ohms/volt for all DC high voltage sources without continuous monitoring of electrical isolation during vehicle operation and for all AC high voltage sources; or

(2) Electrical isolation must be greater than or equal to 100 ohms/volt for all DC high voltage sources with continuous monitoring of electrical isolation, in accordance with the requirements of S5.4, during vehicle operation.

(b) The voltage of the voltage source must be less than or equal to 30 VAC for AC components or 60 VDC for DC components.

The Alliance stated that it believes that the agency has inadvertently written the electrical safety requirements in the final rule in a way that would permit compliance with S5.3(a)(2) as the sole basis for complying with S5.3 in total. It noted that S5.3 states that the vehicle must meet the electrical isolation requirements of subparagraph (a) or the voltage requirements of subparagraph (b). It further noted that if subparagraph (a) is chosen, the language permits compliance to either subparagraph (1) or subparagraph (2), and if subparagraph (2) is chosen, there are no isolation requirements specified for AC high voltage sources. The Alliance requested clarification on whether the agency intended to require 500 ohms/volt isolation for AC sources in subparagraph (a) in both the subsidiary options of subparagraph (a).

NHTSA's Response: NHTSA agrees with the Alliance that the regulatory text in S5.3(a) could be interpreted to imply that for a vehicle with continuous monitoring of electrical isolation, only the DC high voltage components need to meet the 100 ohms/volt electrical isolation and that there are no requirements for AC high voltage components. This was clearly not the intent. We are amending the regulatory text of S5.3(a) to indicate that the electrical isolation between a given high voltage source and any electrical chassis of the vehicle must be greater or equal to one of the following: (1) 500 ohms/volt for an AC high voltage source, or (2) 500 ohms/volt for a DC high voltage source without electrical isolation monitoring, or (3) 100 ohms/volt for a DC high voltage source with electrical isolation monitoring during vehicle operation. In order to further clarify paragraph S5.3, we have included references to specific portions of the test procedures that apply to the electrical safety requirements. In addition, the term ''vehicle chassis electricity conducting structure'' in S5.3 has been replaced by the term ''electrical chassis'' to maintain consistency with the changes discussed earlier in this document. In conclusion, today's final rule amends paragraph S5.3 as follows:

S5.3 *Electrical safety.* After each test specified in S6 of this standard, each high voltage source in a vehicle must meet the electrical isolation requirements of subparagraph (a) or the voltage level requirements of subparagraph (b).

(a) The electrical isolation of the high voltage source, determined in accordance with the procedure specified in S7.6, must be greater or equal to one of the following:

(1) 500 ohms/volt for an AC high voltage source; or

(2) 500 ohms/volt for a DC high voltage source without electrical isolation monitoring during vehicle operation; or

(3) 100 ohms/volt for a DC high voltage source with electrical isolation monitoring, in accordance with the requirements of S5.4, during vehicle operation.

(b) The voltages V1, V2, and Vb of the high voltage source, measured according to the procedure specified in S7.7, must be less than or equal to 30 VAC for AC components or 60 VDC for DC components.

2. Testing Procedures for S5.3(b) Low Voltage Option

The Alliance also stated in its petition that S5.3(b) of the final rule adopted a low-voltage option for providing electrical isolation, while S7.7 specifies the procedure for measuring the voltage. The Alliance petitioned that, for purposes of clarity, the language currently specified in S7.6.1 regarding voltage measurement locations for the electrical isolation option be added to S7.7 for the low-voltage option.

NHTSA's Response: The agency agrees with the Alliance that the procedure to measure the voltage in S7.6.1 should be added to S7.7 for the

[9] Interpretation to Mazda (North America) Inc.—H. Nayaka: February 15, 1983. An ''occupant compartment air space'' is defined as ''the space within the occupant compartment that normally contains refreshable air.''

purposes of improving clarity. However, we believe S7.6.1 needs to be modified to utilize the new definitions adopted above and to clarify the measurement procedure before its contents are added to S7.7. The test procedures in paragraph S7.6.1 of the June 14, 2010 final rule states:

For a vehicle that utilizes an automatic disconnect between the high voltage source and the traction system that is physically contained within the high voltage electric energy storage/conversion/power generating system, the electrical isolation measurement after the test is made from the traction-system side of the automatic disconnect to the vehicle chassis electricity-conducting structure. For a vehicle that utilizes an automatic disconnect that is not physically contained within the high voltage electric energy storage/conversion/power generating system, the electrical isolation measurement after the test is made from both the high voltage source side and from the traction-system side of the automatic disconnect to the vehicle chassis electricity-conducting structure.

As previously discussed, today's final rule has adopted new definitions for ''electric power train'' and ''electrical chassis.'' Therefore, all instances of the term ''traction-system'' in S7.6.1 are replaced by the term ''electric power train'' and all instances of the term ''vehicle chassis electricity-conducting structure,'' are replaced by the term ''electrical chassis.'' This final rule also amends the definition for ''high voltage source'' to include electric components contained in the electric power train and those connected to it. For high voltage sources contained within the electric power train, the regulatory text of S7.6.1 and S7.7 have been amended to indicate that the electrical isolation measurement is made from the side of the automatic disconnect that is connected to ''the rest of the electric powertrain.'' In addition, the regulatory text of the June 14, 2010 final rule S7.6.1 indicates that the ''automatic disconnect'' only applies to high voltage sources within the vehicle's energy storage/conversion/power generating system. We believe that this regulatory text may be misconstrued, since the intent of the agency was that the specifications for the electrical isolation measurement locations with respect to the automatic disconnects in S7.6.1 apply to each high voltage source with automatic disconnects. Therefore, the regulatory text of S7.6.1 in today's final rule is modified as follows and incorporated into S7.7 as requested by the Alliance:

For a high voltage source that has an automatic disconnect that is physically contained within itself, the electrical isolation measurement after the test is made from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train. For a high voltage source that has an automatic disconnect that is not physically contained within itself, the electrical isolation measurement after the test is made from both the high voltage source side of the automatic disconnect and from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train.

However, to ensure consistency and clarity of terminology, today's final rule also revises the first sentence in S7.6.1 to indicate that the electric energy storage/conversion system (rather than the high voltage source) is connected to the vehicle's propulsion system to enable the propulsion system to be energized when the vehicle ignition is in the ''on'' position. A similar clarification is made in S7.2 by replacing ''high voltage system'' (which is not defined in the regulatory text) with ''electric energy storage/conversion system'' and ''propulsion motors'' with ''propulsion system.''

e. Electrical Isolation Monitoring

While the NPRM did not propose a requirement for electrical isolation monitoring, we acknowledged in the NPRM that the petitioner for rulemaking requested that FMVSS No. 305 allow for DC high voltage sources to meet a 100 ohms/volt electrical isolation requirement when coupled with electrical isolation monitoring. In the final rule, based on our analysis of comments on the NPRM, we required that each DC high voltage source meet 500 ohms/volt electrical isolation for vehicles without continuous electrical isolation monitoring but allowed DC high voltage sources to meet 100 ohms/volt electrical isolation if the vehicle had continuous monitoring of electrical isolation during vehicle operation. We required that the system must monitor its own readiness and provide a warning display that must be clearly visible from the driver's designated seating position for loss of isolation when tested according to the test procedure in S8.

The agency stated its belief that electrical isolation monitoring is especially needed for electrical components whose electrical isolation may degrade over time such as fuel cell stacks in fuel cell vehicles where the coolant may increase in conductivity during vehicle service and thereby result in a reduction of electrical isolation. Since it is anticipated that the 100 ohms/volt electrical isolation requirement for DC high voltage components would likely be exercised for the fuel cell stacks and other such electrical components whose isolation may degrade over time, we included the need for isolation monitoring of these components in the final rule.

In its petitions for reconsideration, Honda stated that the level of protection against electric shock should be judged by the absolute value of electrical isolation resistance. Honda argued that whether or not the vehicle is equipped with an isolation monitor has no relation to the possibility of electric shock resulting from touching the high voltage bus after a crash. Honda proposed removing entire sections of S5.4 and S8 related to isolation monitoring systems. Honda noted that the 2009 SAE J2578 [10] and the 2009 ISO 6469–3 [11] draft standards do not require electrical isolation monitoring for electrical components with 100 ohms/volt electrical isolation and requested that the electrical isolation monitoring requirements be removed to resolve the differences between the FMVSS No. 305 and the SAE/ISO standards.

Honda requested that if NHTSA decides not to remove the electrical isolation monitoring requirement, it instead permit periodic electrical isolation monitoring systems such as those that do not monitor the electrical isolation during start-up of vehicle/system (until main contactor is connected). Honda stated that the 2010 draft of ISO 6469–3 and the 2006 draft of ISO 23273–3 permit both continuous and periodic electrical isolation measurements during vehicle operation and that ''periodic'' systems would also detect a failure in isolation and appropriately warn the driver. Therefore, Honda proposed FMVSS No. 305 include the words ''or periodic'' after the word, ''continuous'' in S5.3, S5.4 and S8.

Further, Honda stated that the electrical isolation monitoring system only monitors the entire system during normal vehicle operation and is not capable of independently monitoring each high voltage source. Therefore, Honda requested that the agency clarify that the electrical isolation monitoring system will not be required to independently monitor each high voltage source by deleting the words ''For each continuously monitored DC

[10] SAE J2578—Recommended practice for general fuel cell vehicle safety, SAE J2578–2009–01, Society of Automotive Engineers, *http://standards.sae.org/j2578_200901/.*

[11] ISO 6469–3—Electrically propelled road vehicles—Safety specification—Part 3: Protection of persons against electric shock, 2009, *http://www.iso.org/iso/catalogue_detail?csnumber=45479.*

high voltage source,'' from the regulatory text in S5.4.

Finally, Honda stated that the test procedure to determine the operation of isolation monitoring systems does not allow flexibility in selecting the resistor that is inserted between the positive terminal of the high voltage source and the vehicle chassis electric conducting structure. Honda noted that, as prescribed, S8(4) requires inserting a resistor with resistance equal to the calculated result 1/(1/(95 times the working voltage of the high voltage source)—1/Ri) and does not allow any flexibility. Honda petitioned to allow any higher resistor to be used in the test procedure to determine if the isolation monitoring system is operating correctly arguing that the stringency of the test would not be compromised since higher resistance would provide a worse case condition.

NHTSA's Response—While we agree with Honda that isolation monitoring is intended to identify the possibility of deteriorated isolation that occurs over time during the normal service life of the vehicle and that an isolation monitor is not intended to guard against the possibility of electric shock resulting from touching a high voltage source after a crash, we do not agree that the requirement for electrical isolation monitoring should be deleted from the standard. The requirement that DC high voltage sources be monitored during vehicle operation with an isolation monitoring system that displays a warning for loss of electrical isolation is similar to the air bag readiness indicator required by FMVSS No. 208, ''Occupant crash protection.'' Neither the electrical isolation warning display nor the air bag readiness indicator provides protection during or after a crash. However, these indicators serve to provide the driver information that the related system may not be in proper working condition. Electrical isolation monitoring addresses a relevant safety concern because electric vehicles that use the 100 ohms/volt electrical isolation option to comply with the electrical safety requirements may likely be powered by fuel cells which have coolant that can deteriorate the electrical isolation over time. The agency made the decision to require electrical isolation monitoring based on careful analysis of the electrical safety concerns associated with providing adequate electrical shock protection both during vehicle operation and following a crash.

We also note that the electrical isolation and the electrical isolation monitoring requirements in the June 14, 2010 final rule were consistent with the joint Alliance/AIAM comments to the NPRM and SAE J1766. The standards referred to by Honda in its petition (SAE J2578 and ISO 6469–3) are draft documents that may be subject to change. For example, the 2009 draft of ISO 6469–3 does not require electrical isolation monitoring while the 2010 version makes provisions for continuous and periodic electrical isolation monitoring. As the aforementioned voluntary standards are still in flux regarding requiring electrical isolation monitoring, and as the agency believes that electrical isolation monitoring addresses an important safety concern by warning the driver of a possible degradation in electrical isolation, we are denying Honda's petition to remove the electrical isolation monitoring requirements from S5.4 and S8.

However, we agree with Honda's petition that the term ''continuous'' in the electrical isolation monitoring system requirement should be clarified. Since the standard provides a test procedure and performance criteria for assessing the operation of the electrical isolation monitoring system, we believe there is no need to specify the type of monitoring system. The only requirement contained in today's final rule is that the monitoring systems meet the performance criteria in S5.4 when tested according to the procedure in S8. Therefore, rather than adding the additional term ''or periodic,'' as suggested by Honda, we are deleting the specification for the monitoring system to be ''continuous'' in S5.3, S5.4, and S8 to address its concern. We are also modifying the regulatory text of S5.4 slightly to improve clarity.

We agree with Honda that electrical isolation monitoring systems may only monitor the whole vehicle system. However, the regulatory requirements in S5.4 only apply to those DC high voltage sources that manufacturers have chosen to certify to the 100 ohms/volt electrical isolation requirement and do not comply with the 500 ohms/volt electrical isolation requirement. Therefore, the test procedure in S8 evaluates the performance of the monitoring system for each DC high voltage source that is certified to 100 ohms/volt electrical isolation. The procedures in S8 are intended to test for the condition when electrical isolation of each DC high voltage source (certified to the 100 ohms/volt requirement) falls below 100 ohms/volt. Therefore, we do not grant Honda's request to remove the phrase ''For each continuously monitored DC high voltage source'' from the regulatory text in S5.4.

Finally, Honda also petitioned for flexibility in the use of any higher resistor in the test procedure to determine if the isolation monitoring system is operating correctly. It argued that allowing a higher resistance would not compromise the stringency of the requirements since it would provide for a worse case condition. In the June 14, 2010 final rule, the resistance of the external resistor applied in the test procedure detailed in S8 is calculated such that the combined electrical isolation resistance of the high voltage source and the external resistor results in electrical isolation of 95 ohms/volt which is 95 percent of the required electrical isolation. The electrical isolation monitor is required to display a warning when the electrical isolation falls to 95 ohms/volt. If the resistance of the external resistor applied in the test is greater than that specified in S8, as requested by Honda, then we agree that the combined electrical isolation for which the monitoring system will need to display a warning may be greater than 100 ohms/volt, thereby making the requirement more stringent.

The final rule requires 100 ohms/volt electrical isolation for monitored DC high voltage sources. For compliance purposes, we are assessing the operation of the monitoring system when the electrical isolation falls just below the required value. The final rule does not preclude manufacturers from having the isolation monitor warning display come on at a higher value than the minimum electrical isolation of 100 ohms/volt. Therefore, we do not believe it is necessary to grant Honda's request to change S8(4) to include an external resistor of higher resistance than that specified by the calculation.

However, we do see merit in including some flexibility in the resistance of the external resistor selected to evaluate the electrical isolation monitoring system such that it is easy for the testing personnel to select an off-the-shelf resistor instead of having to build a resistor to meet the exact computed resistance of the external resistor. Therefore, we are specifying that the resistance of the external resistor be such that the combined electrical isolation is greater or equal to 95 ohms/volt but less than 100 ohms/volt. This will allow the agency to test the operation of the monitoring system when the electrical isolation falls just below the required 100 ohms/volt, and will provide manufacturers additional flexibility in selecting resistors for testing.

f. Electric Energy Storage Device State-of-Charge

In the June 14, 2010 final rule, we required that prior to the crash test, the electric energy storage device be at the

maximum state-of-charge recommended by the manufacturer, as stated in the vehicle owner's manual or on a label that is permanently affixed to the vehicle; or if the manufacturer has made no recommendation in the owner's manual or on a label permanently affixed to the vehicle, at a state-of-charge of not less than 95 percent of the maximum capacity of the electric energy storage device; or if the electric energy storage device(s) is/are rechargeable only by an energy source on the vehicle, at any state-of-charge within the normal operating voltage defined by the vehicle manufacturer. These state-of-charge provisions in the June 14, 2010 final rule were substantively identical to the original FMVSS No. 305 that existed before the NPRM in this rulemaking.

In its petition asking the agency to reconsider these provisions, the Alliance requested that FMVSS No. 305 be amended to allow testing at ''any state-of-charge which allows the normal operation of the power train as recommended by the manufacturer.'' In support of this request, the Alliance stated that the United Nations Economic Commission for Europe (UNECE) draft regulations (ECE R.94 and 95) [12] already propose to permit testing of electric vehicles at any state-of-charge. The Alliance stated that this proposed change would (1) allow for systems with external charging capability to be tested at lower state-of-charge (similar to hybrid electric vehicles), (2) result in reduced facility/test personnel risk (similar to the current use of stoddard in fuel systems), and (3) further provide an opportunity for harmonization with UNECE regulations. Thus, the Alliance argued that in the interest of safety in the testing environment and harmonization, the UNECE allowance on state-of-charge should be adopted.

Ford also offered comments regarding the state-of-charge and the FMVSS No. 305 test conditions. Ford stated that state-of-charge does not affect the energy storage/conversion system mass, electrolyte volume or containment capability and does not affect electrical isolation. Ford presented theoretical examples of systems suffering loss of electrical isolation during the crash test prescribed in the standard. Using the electrical isolation test procedure outlined in the standard, Ford demonstrated that the loss in electrical isolation was detected when the system was energized at 95 percent and 5 percent of the maximum state-of-charge. Ford agreed with the Alliance that the lower state-of-charge would reduce potential risk to test personnel similar to the use of substitute liquids and gases in other FMVSSs.

In addition, Honda's petition stated that the state-of-charge testing requirements should be amended to address new technologies such as plug in hybrid electric vehicles (PHEVs) which will become common in the near future. Honda noted that the regulatory text indicates that if the manufacturer of vehicles (such as PHEVs) recommends a specific maximum state-of-charge, the test would be conducted at the specified maximum state-of-charge. However, if the manufacturer has no recommendation, the test would be conducted at a state-of-charge of not less than 95 percent of the maximum capacity of the electric energy storage device.

Honda argued that the state-of-charge for an electric energy storage device can vary due to environmental conditions such as temperature or service life and that it will not be recommending a specific state-of-charge in the owner's manual or on the label affixed to the vehicle because the electric energy storage device is charged appropriately by an off-board and/or on-board charger recommended by the manufacturer. Thus, Honda petitioned to have the regulatory text of S7.1 changed from ''recommended by the manufacturer, as stated in the vehicle owner's manual or on a label that is permanently affixed to the vehicle'' to ''in accordance with the vehicle manufacturer's recommended charging procedures.'' For those manufacturers that make no recommendation, Honda further petitioned to have the regulatory text of S7.1(b) changed from ''made no recommendation in the owner's manual or on a label permanently affixed to the vehicle'' to ''made no recommendation for charging procedures.''

NHTSA's Response: NHTSA does not agree with the Alliance and Ford that the electric energy storage device should be at any state-of-charge that allows for the normal operation of the power train as recommended by the manufacturer. Specifying the state-of-charge provides a uniform way of testing and ensures all electric powered motor vehicles are tested in a similar manner.

We agree with Ford that the electrical isolation resistance measurement remains unchanged for different operating voltages and that loss in electrical isolation can be detected by the method outlined in the standard for different states of charge. However, we are concerned that certain electric components, such as capacitor networks within the electric power train may not be tested to their design limits when tested at a lower state-of-charge. When the vehicle crash test is conducted at the maximum state-of-charge, there is potential for some of the capacitor voltages to reach their design limits which may result in an electric short and hence cause a loss in electrical isolation. This potential safety hazard may not occur when the vehicle is tested at a lower state-of-charge which results in a lower energy test condition. We also do not agree with petitioners that testing at lower state-of-charge to evaluate electrical safety is similar to fuel system integrity testing with stoddard fluid in gasoline powered vehicles and nitrogen in compressed natural gas vehicles. While use of stoddard fluids and nitrogen do not change the performance of the fuel containers during and after the test, using lower state-of-charge may not evaluate certain electrical components at their design limits.

We further note that the December 2010 draft of SAE J2929—''Electric and Hybrid Vehicle Propulsion Battery System Safety Standard for Lithium-Based Rechargeable Cells,'' requires the battery state-of-charge to be at the maximum possible during normal vehicle operation before the battery system is tested for mechanical shock hazard in a vehicle pursuant to FMVSS No. 305. While the draft SAE J2929 test applies to different safety concerns, it does involve the same crash tests as this standard and utilizes similar state-of-charge requirements. Therefore, the agency's position on the state-of-charge of the energy storage/conversion system prior to the crash test is consistent with the future voluntary industry standard for battery systems. We are therefore denying the petition from the Alliance and Ford to conduct the crash test at any state-of-charge which allows the normal operation of the power train as recommended by the manufacturer.

However, we agree with Honda that the maximum state-of-charge may vary based on environmental conditions such as the age of the battery, temperature and service life for today's battery technologies. Thus, having the label specify the maximum state-of-charge in the owner's manual or a label permanently affixed to the vehicle may not provide consumers the information they need to recharge their vehicle throughout the vehicle's life. However, manufacturers will likely provide information to consumers on the proper charging procedures to achieve

[12] ECE R.94—Uniform Provisions Concerning the Approval of Vehicles with Regard to the Protection of the Occupants in the Event of a Frontal Collision, draft modifications of September 2010. ECE R.95—Uniform Provisions Concerning the Approval of Vehicles with Regard to the Protection of the Occupants in the Event of a Lateral Collision, draft modifications of September 2010.

maximum range, as suggested by Honda. Therefore, we are modifying the regulatory text to indicate that the maximum state-of-charge in accordance with the vehicle manufacturer's recommended charging procedure, as stated in the vehicle owner's manual or on a label that is permanently affixed to the vehicle, will be used. In the case where no such recommendation is provided in the owner's manual or on a label permanently affixed to the vehicle, the test will be conducted with the electric energy storage/conversion device charged to 95 percent of its rated capacity.

g. Physical Barrier Compliance Option for Electrical Safety

The June 14, 2010 final rule did not include a physical barrier compliance option for electrical safety since it was beyond the scope of the rulemaking. In addition, the agency stated in the final rule that it was uncertain whether indirect contact failure modes would be sufficiently accounted for by the protective barrier compliance option and noted that it had initiated a research program to better understand the issues.

In its petition for reconsideration, the Alliance disagreed with the agency's concern that the physical barrier option may not appropriately address electrical shock from indirect contact. The Alliance stated its belief that the test procedure for the protective barrier compliance option is equally valid for assessing both direct and indirect contact. It stated that the basic premise of the protective barrier compliance option is that if a person cannot contact high voltage sources, then there is little chance of injury from such sources.

The Alliance further stated that there is worldwide recognition and acceptance of the barrier option as a means for providing electrical safety, and updating FMVSS No. 305, as requested, would be a key enabler facilitating the introduction of all forms of electric-powered vehicles into the U.S. mainstream vehicle fleet. It argued that such vehicle technologies are vital to achieving the current Administration's energy and emissions goals. The Alliance further stated that given the urgent need for the barrier option and the fact that the barrier option in the draft GTR language (the ELSA document) is fully accepted by the international community, it is not necessary to delay a rulemaking proposal. Accordingly, the Alliance requested that NHTSA initiate a new rulemaking to incorporate the barrier option into FMVSS No. 305, and to complete this rulemaking with an urgency that is consistent with the national priorities to improve energy independence and reduced emissions.

NHTSA's Response: Our position on the requested physical barrier option has not substantively changed since the June 14, 2010 final rule. As noted in the June 14, 2010 final rule, NHTSA is doing research to evaluate the suitability of including the protective barrier option in FMVSS No. 305. NHTSA is aware that other countries have adopted a similar option in their regulations for electrical safety, but that does not eliminate the need for the agency to obtain the necessary supporting research to fully understand the consequences of adding this option as a means for providing electrical safety in FMVSS No. 305. Prior to changing any safety standard, NHTSA must first ensure that the proposed requirement provides an adequate level of safety and does not create an inadvertent safety risk to the motoring public, or first responders responding to the scene of a crash. Upon completion of the agency's research, NHTSA will make a decision whether to include physical barriers as an option for providing electrical safety in FMVSS No. 305. If the agency decides that a proposal for the protective barrier compliance option has merit, it will propose performance requirements, as well as a test procedure, at that time.

h. Use of Alternative Gas for Testing Hydrogen Fuel Cell Vehicles

The June 14, 2010 final rule also did not include a provision for testing hydrogen fuel cell vehicles using an inert gas, such as helium. When testing with an inert gas, the fuel cell stacks are not energized and consequently will not generate any electrical energy from which to measure electrical output. The final rule stated that the agency was researching potential crash test procedures for testing fuel cell vehicles, but would not address this issue as part of the June 14, 2010 final rule.

Petitions for reconsideration from the AIAM and Honda requested the agency to expedite this research so that a decision can be made in the near future for testing hydrogen fuel cell vehicles with helium-filled fuel containers. The organizations noted that fuel cell vehicles will be required to comply with FMVSS No. 305 by September 1, 2011. They argued that testing for those vehicles will then have to be conducted using hydrogen gas in accordance with the current regulation, if no changes are made. The AIAM and Honda further stated that other FMVSS crash test procedures (*i.e.* FMVSS Nos. 208, ''Occupant crash protection,'' 214, ''Side impact crash protection,'' 301, ''Fuel system integrity,'' and 303, ''Fuel system integrity of compressed natural gas vehicles'') require filling the fuel tank with alternative fuel to ensure safety during and after the crash test and the use of gasoline, diesel, and compressed natural gas in such tests is prohibited. The organizations requested that the test procedure for FMVSS No. 305 be aligned with the procedures of other existing crash-related regulations. Both organizations further reiterated their original comments to the NPRM that current Japanese regulations require the use of helium gas in crash tests, and prohibit the use of hydrogen.

NHTSA's Response—As noted in the June 14, 2010 final rule, the agency has ongoing research in developing a test procedure for evaluating the electrical safety of fuel cell vehicles with an inert gas and inactive fuel cells and the agency's position has not substantively changed since then. When an inert gas is used instead of hydrogen in fuel cell vehicles, some of the electrical components of the electric power train may be rendered inactive. Currently, the agency has not developed a test procedure to test the electrical safety of all high voltage sources accurately when an inert gas is used during testing of fuel cell vehicles. We note that while the Japanese regulation and the ELSA document permit the use of helium gas in crash tests of hydrogen powered vehicles, both the Japanese regulation and the ELSA document do not specify a test procedure to evaluate the electrical safety of such vehicles when an inert gas is used in place of hydrogen.

Therefore, the agency believes further work is needed to resolve the identified issues in testing hydrogen fuel cell vehicles. While there are currently no explicit provisions for using an alternative gas in lieu of hydrogen, comparable to the fuel system integrity standards for gasoline or compressed natural gas powered vehicles, the test procedures in an FMVSS are those that the agency will use to determine compliance to the particular standard. Manufacturers are not prohibited from using other test procedures for compliance certification and may elect to conduct crash tests of hydrogen fuel cell vehicles with a less volatile gas such as helium.

i. Low-Energy Compliance Option for Electrical Safety

Although the NPRM sought comment on whether or not the requested low-energy compliance option for electrical safety should be included, it did not include this option in the proposed rule. After carefully considering the

comments received, the agency did not include the low-energy compliance option in the June 14, 2010 final rule as we remained unconvinced that the option was necessary and that it would adequately address the safety concerns of FMVSS No. 305. In its petition for reconsideration, the Alliance stated its continued belief that the low-energy option has merit and should be included in FMVSS No. 305. However, the Alliance also recognized that more research may be required in order to fully understand the safety implications of this option. Given the available information on the low-energy compliance option for electrical safety has not significantly changed, NHTSA's position on the low-energy compliance option remains as expressed in the June 14, 2010 final rule.

V. Rulemaking Analyses and Notices

a. 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 (44 FR 11034; February 26, 1979). NHTSA has determined that the effects of this final rule are minor and that a regulatory evaluation is not needed to support the subject rulemaking. Today's final rule only makes slight changes to the regulatory text of the June 14, 2010 final rule to add clarification and does not impose significant costs beyond those already required by the June 14, 2010 final rule.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule does not have a significant economic impact on a substantial number of small entities. Any small manufacturers that might be affected by this final rule are already subject to the requirements of FMVSS No. 305. Further, the agency believes the testing associated with the requirements added by this final rule are not substantial and to some extent are already being voluntarily borne by the manufacturers pursuant to SAE J1766, SAE J2578, ECE regulations, and other voluntary industry standards. Therefore, the impacts on any small businesses affected by this rulemaking would not be substantial.

c. Executive Order 13132 (Federalism)

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255; Aug. 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the final rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Today's final rule does not impose substantial additional requirements. Instead, it clarifies the existing requirements from the June 14, 2010 final rule.

NHTSA rules can have preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision:

> When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.

49 U.S.C. 30103(b)(1). It is this statutory command that preempts any non-identical State legislative and administrative law [13] addressing the same aspect of performance, not today's rulemaking.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of State common law tort causes of action by virtue of NHTSA's rules—even if not expressly preempted.

This second way that NHTSA rules can preempt is dependent upon the existence of an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer—notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Order 13132, NHTSA has considered whether this rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's rule and finds that this rule merely clarifies the requirements and definitions contained in the June 14, 2010 final rule. As such, NHTSA does not intend that this rule preempt state tort law that would effectively impose a higher standard on

[13] The issue of potential preemption of state tort law is addressed in the immediately following paragraph discussing implied preemption.

motor vehicle manufacturers than that established by today's rule. Additionally, in the June 14, 2010 final rule, the agency did not assert preemption. Establishment of a higher standard by means of State tort law would not conflict with the exemption announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

d. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

e. Executive Order 12988 (Civil Justice Reform)

When promulgating a regulation, agencies are required under Executive Order 12988 to make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of today's final rule is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

f. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or online at *http://www.dot.gov/privacy.html.*

g. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There are no information collection requirements associated with this final rule.

h. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. FMVSS No. 305 has historically drawn largely from SAE J1766. Prior to this update, FMVSS No. 305 was based on the April 2005 version of SAE J1766. However, today's final rule has made certain amendments to the standard to reflect the development of new voluntary consensus standards that have superseded SAE J1766. Thus, today's final rule makes revisions to the June 14, 2010 final rule that updated FMVSS No. 305.

i. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or Tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). Today's final rule, which clarifies the June 14, 2010 final rule, will not result in expenditures by State, local or Tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

j. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please notify the agency in writing.

k. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

VI. Regulatory Text

List of Subjects in 49 CFR part 571

Imports, Motor vehicles, Motor vehicle safety.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 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. Amend § 571.305 by revising S1, S2, S3, S4, S5.2, S5.3, S5.4, S7.1, S7.2, S7.6.1, S7.6.4, S7.6.5, S7.6.6, S7.6.7, S7.7, and S8 and Figures 1 through 5 as follows:

§ 571.305 Standard No. 305; Electric-powered vehicles: Electrolyte spillage and electrical shock protection.

S1. *Scope.* This standard specifies requirements for limitation of electrolyte spillage, retention of electric energy storage/conversion devices, and protection from harmful electric shock during and after a crash.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries

during and after a crash that occurs because of electrolyte spillage from electric energy storage devices, intrusion of electric energy storage/conversion devices into the occupant compartment, and electrical shock.

S3. *Application.* This standard applies to passenger cars, and to multipurpose passenger vehicles, trucks and buses with a GVWR of 4,536 kg or less, that use electrical propulsion components with working voltages more than 60 volts direct current (VDC) or 30 volts alternating current (VAC), and whose speed attainable over a distance of 1.6 km on a paved level surface is more than 40 km/h.

S4. *Definitions.*

Automatic disconnect means a device that when triggered, conductively separates a high voltage source from the electric power train or the rest of the electric power train.

Electric energy storage device means a high voltage source that stores energy for vehicle propulsion. This includes, but is not limited to, a high voltage battery or battery pack, rechargeable energy storage device, and capacitor module.

Electric energy storage/conversion device means a high voltage source that stores or converts energy for vehicle propulsion. This includes, but is not limited to, a high voltage battery or battery pack, fuel cell stack, rechargeable energy storage device, and capacitor module.

Electric energy storage/conversion system means an assembly of electrical components that stores or converts electrical energy for vehicle propulsion. This includes, but is not limited to, high voltage batteries or battery packs, fuel cell stacks, rechargeable energy storage systems, capacitor modules, inverters, interconnects, and venting systems.

Electric power train means an assembly of electrically connected components which includes, but is not limited to, electric energy storage/conversion systems and propulsion systems.

Electrical chassis means conductive parts of the vehicle whose electrical potential is taken as reference and which are: (1) conductively linked together, and (2) not high voltage sources during normal vehicle operation.

Electrical isolation of a high voltage source in the vehicle means the electrical resistance between the high voltage source and any of the vehicle's electrical chassis divided by the working voltage of the high voltage source.

High voltage source means any electric component contained in the electric power train or conductively connected to the electric power train that has a working voltage greater than 30 VAC or 60 VDC.

Propulsion system means an assembly of electric or electro-mechanical components or circuits that propel the vehicle using the energy that is supplied by a high voltage source. This includes, but is not limited to, electric motors, inverters/converters, electronic controllers, and associated wire harnesses and connectors, and coupling systems for charging rechargeable energy storage systems.

* * * * *

S5.2 *Electric energy storage/conversion device retention.* During and after each test specified in S6 of this standard:

(a) Electric energy storage/conversion devices shall remain attached to the vehicle by at least one component anchorage, bracket, or any structure that transfers loads from the device to the vehicle structure, and

(b) Electric energy storage/conversion devices located outside the occupant compartment shall not enter the occupant compartment.

S5.3 *Electrical safety.* After each test specified in S6 of this standard, each high voltage source in a vehicle must meet the electrical isolation requirements of subparagraph (a) or the voltage level requirements of subparagraph (b).

(a) The electrical isolation of the high voltage source, determined in accordance with the procedure specified in S7.6, must be greater than or equal to one of the following:

(1) 500 ohms/volt for an AC high voltage source; or

(2) 500 ohms/volt for a DC high voltage source without electrical isolation monitoring during vehicle operation; or

(3) 100 ohms/volt for a DC high voltage source with electrical isolation monitoring, in accordance with the requirements of S5.4, during vehicle operation.

(b) The voltages V1, V2, and Vb of the high voltage source, measured according to the procedure specified in S7.7, must be less than or equal to 30 VAC for AC components or 60 VDC for DC components.

S5.4 *Electrical isolation monitoring.* Each DC high voltage source with electrical isolation monitoring during vehicle operation pursuant to S5.3(a)(2) shall be monitored by an electrical isolation monitoring system that displays a warning for loss of isolation when tested according to S8. The system must monitor its own readiness and the warning display must be visible to the driver seated in the driver's designated seating position.

* * * * *

S7.1 *Electric energy storage device state-of-charge.* The electric energy storage device shall be at the state-of-charge specified in either subparagraph (a), (b), or (c):

(a) At the maximum state-of-charge in accordance with the vehicle manufacturer's recommended charging procedures, as stated in the vehicle owner's manual or on a label that is permanently affixed to the vehicle; or

(b) If the manufacturer has made no recommendation for charging procedures in the owner's manual or on a label permanently affixed to the vehicle, at a state-of-charge of not less than 95 percent of the maximum capacity of the electric energy storage device; or

(c) If the electric energy storage device(s) is/are rechargeable only by an energy source on the vehicle, at any state-of-charge within the normal operating voltage defined by the vehicle manufacturer.

S7.2 *Vehicle conditions.* The switch or device that provides power from the electric energy storage/conversion system to the propulsion system is in the activated position or the ready-to-drive position.

* * * * *

S7.6.1 Prior to any barrier impact test, the energy storage/conversion system is connected to the vehicle's propulsion system, and the vehicle ignition is in the ''on'' (propulsion system energized) position. Bypass any devices or systems that do not allow the propulsion system to be energized at the time of impact when the vehicle ignition is on and the vehicle is in neutral. For a high voltage source that has an automatic disconnect that is physically contained within itself, the electrical isolation measurement after the test is made from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train. For a high voltage source that has an automatic disconnect that is not physically contained within itself, the electrical isolation measurement after the test is made from both the high voltage source side of the automatic disconnect and from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train.

* * * * *

S7.6.4 The voltage(s) is/are measured as shown in Figure 2, and the voltage(s) (V1) between the negative side of the high voltage source and the electrical chassis.

S7.6.5 The voltage(s) is/are measured as shown in Figure 3, and the voltage(s) (V2) between the positive side of the high voltage source and the electrical chassis.

S7.6.6 If V1 is greater than or equal to V2, insert a known resistance (Ro) between the negative side of the high voltage source and the electrical chassis. With the Ro installed, measure the voltage (V1′) as shown in Figure 4 between the negative side of the high voltage source and the electrical chassis. Calculate the electrical isolation resistance (Ri) according to the formula shown. Divide Ri (in ohms) by the working voltage of the high voltage source (in volts) to obtain the electrical isolation (in ohms/volt).

S7.6.7 If V2 is greater than V1, insert a known resistance (Ro) between the positive side of the high voltage source and the electrical chassis. With the Ro installed, measure the voltage (V2′) as shown in Figure 5 between the positive side of the high voltage source and the electrical chassis. Calculate the electrical isolation resistance (Ri) according to the formula shown. Divide Ri (in ohms) by the working voltage of the high voltage source (in volts) to obtain the electrical isolation (in ohms/volt).

S7.7 *Voltage measurement.* For the purpose of determining the voltage level of the high voltage source specified in S5.3(b), voltage is measured as shown in Figure 1. Voltage Vb is measured across the two terminals of the voltage source. Voltages V1 and V2 are measured between the source and the electrical chassis. For a high voltage source that has an automatic disconnect that is physically contained within itself, the electrical isolation measurement after the test is made from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train. For a high voltage source that has an automatic disconnect that is not physically contained within itself, the electrical isolation measurement after the test is made from both the high voltage source side of the automatic disconnect and from the side of the automatic disconnect connected to the electric power train or to the rest of the electric power train if the high voltage source is a component contained in the power train.

S8. Test procedure for on-board electrical isolation monitoring system. Prior to any impact test, the requirements of S5.4 for the on-board electrical isolation monitoring system shall be tested using the following procedure.

(1) The electric energy storage device is at the state-of-charge specified in S7.1.

(2) The switch or device that provides power from the high voltage system to the propulsion motor(s) is in the activated position or the ready-to-drive position.

(3) Determine the isolation resistance, Ri, of the high voltage source with the electrical isolation monitoring system using the procedure outlined in S7.6.2 through S7.6.7.

(4) Insert a resistor with resistance Ro equal to or greater than 1/(1/(95 times the working voltage of the high voltage source) − 1/Ri) and less than 1/(1/(100 times the working voltage of the high voltage source) − 1/Ri) between the positive terminal of the high voltage source and the electrical chassis.

(5) The electrical isolation monitoring system indicator shall display a warning visible to the driver seated in the driver's designated seating position.

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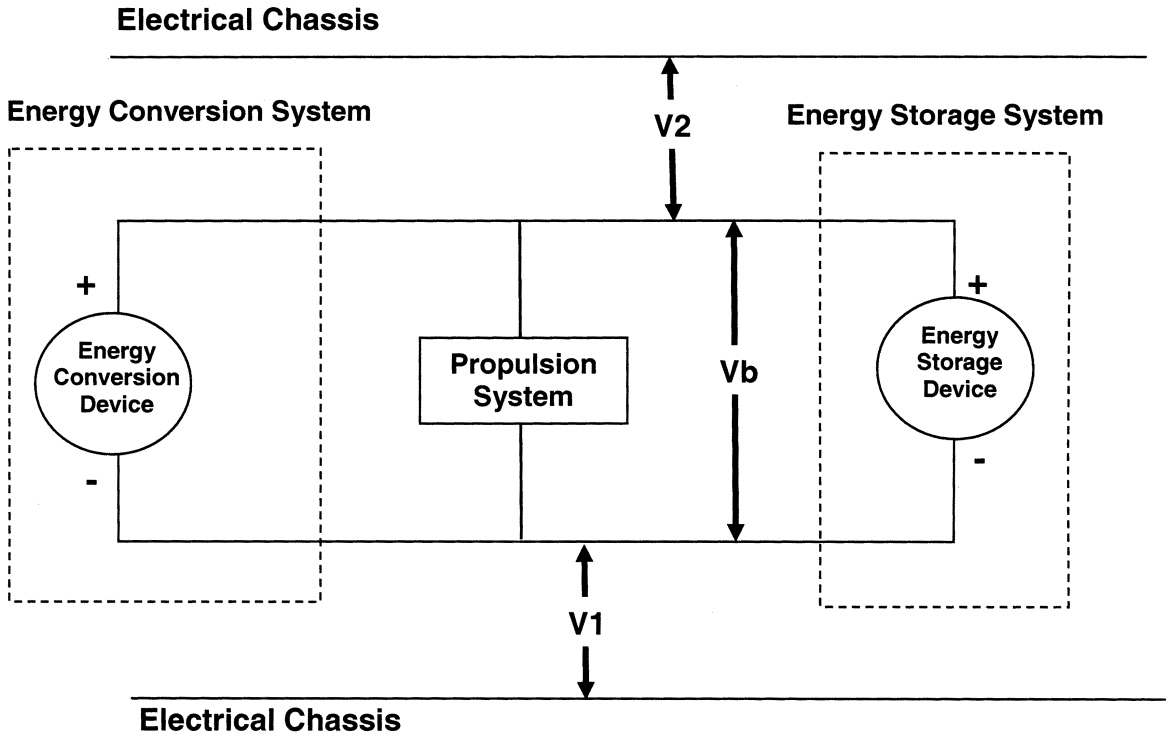


Figure 1. S7.6.3 and S7.7 Voltage Measurements of the High Voltage Source

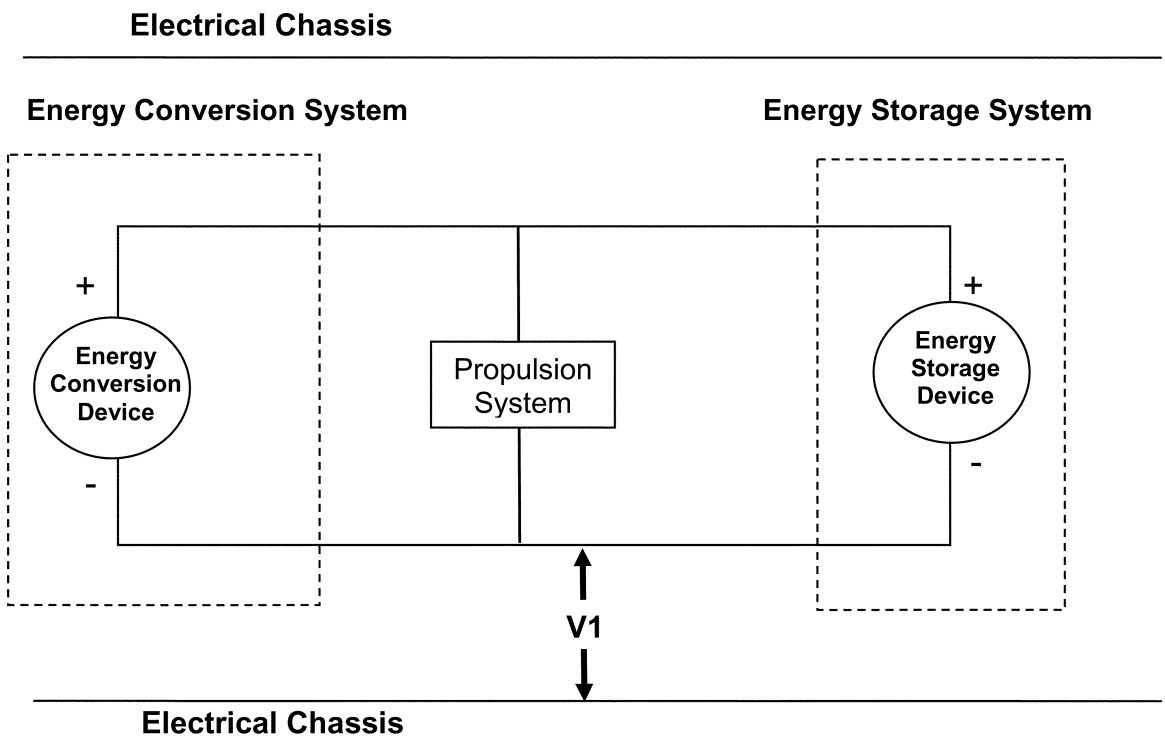


Figure 2. S7.6.4 Measurement for V1 Voltage between the Negative Side of the High Voltage Source and the Electrical Chassis

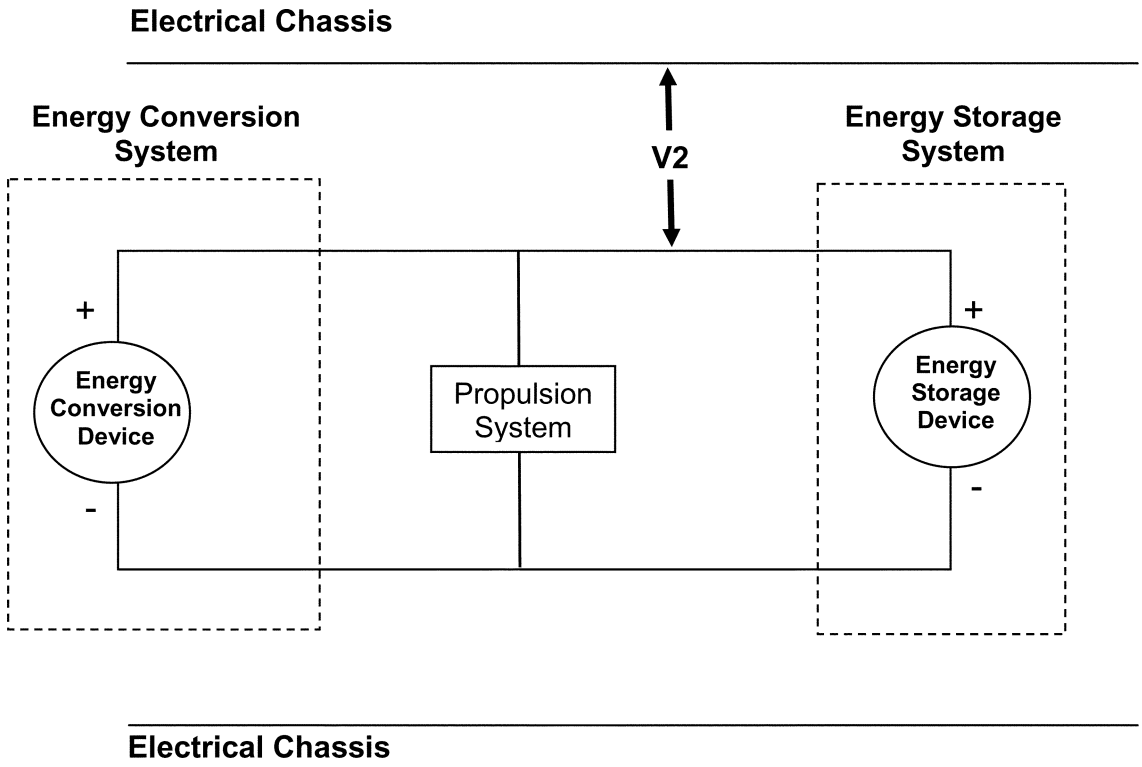
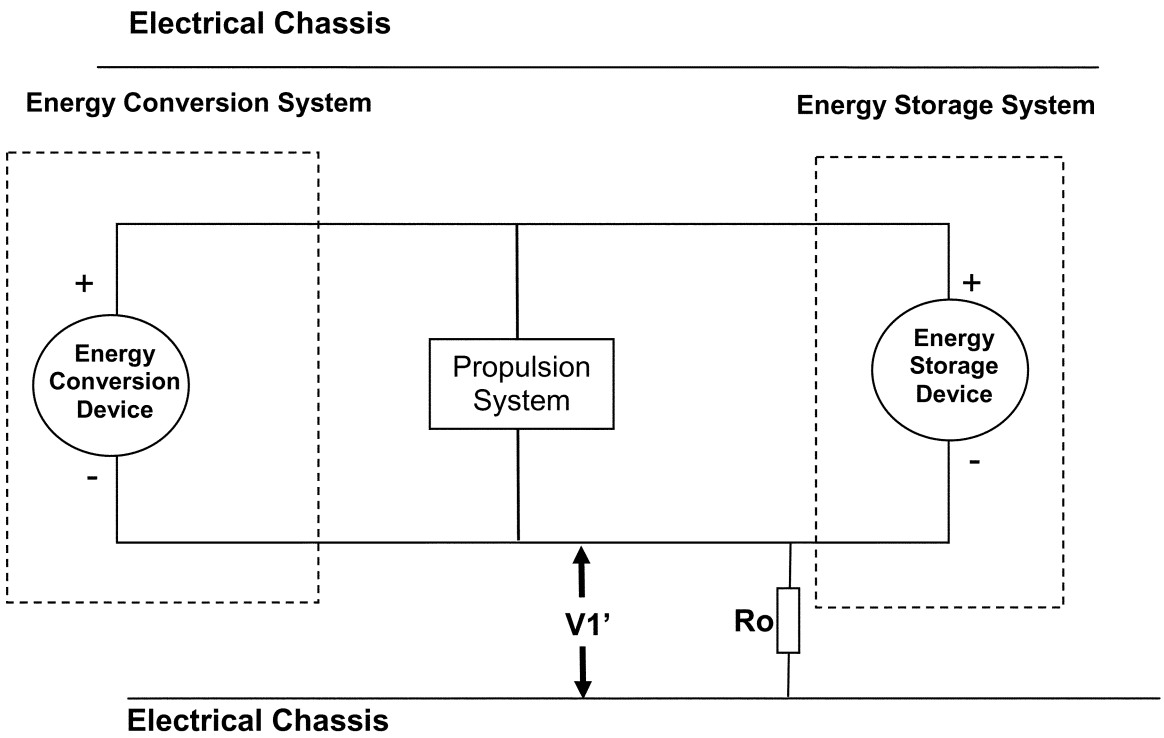


Figure 3. S7.6.5 Measurement for V2 Voltage between the Positive Side of the High Voltage Source and the Electrical Chassis



$$Ri = Ro\ (1+V2/V1)((V1-V1')/V1')$$

Figure 4. S7.6.6 Measurement for V1' Voltage across Resistor between Negative Side of the High Voltage Source and Electrical Chassis

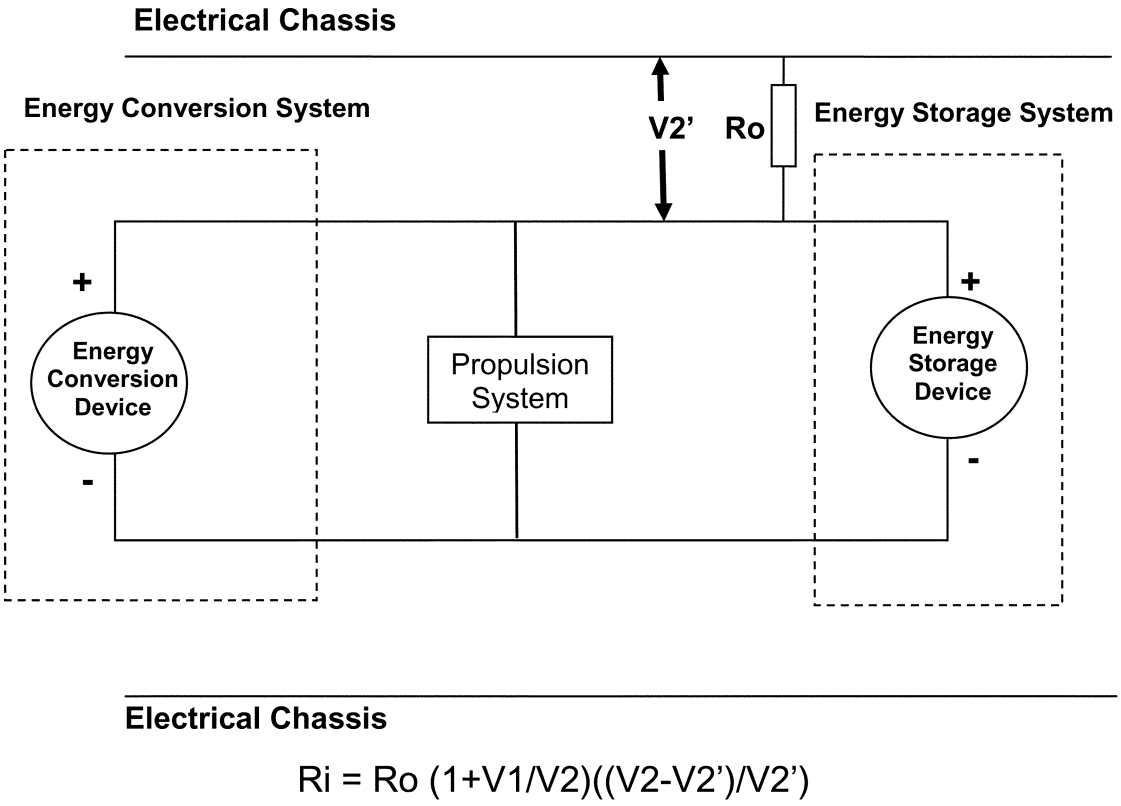


Figure 5. S7.6.7 Measurement for V2' Voltage across Resistor between Positive Side of the High Voltage Source and Electrical Chassis

Issued on: July 25, 2011.

David L. Strickland,

Administrator.

[FR Doc. 2011–19216 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–2010–0025]

RIN 2127–AK51

New Car Assessment Program (NCAP); Safety Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: New passenger vehicles manufactured on or after September 1, 2007 must be labeled with safety rating information published by the National Highway Traffic Safety Administration (NHTSA) under its New Car Assessment Program (NCAP). This information is required by statute to be part of the Monroney (automobile price sticker) label. Effective beginning in model year 2011 passenger vehicles, NHTSA enhanced the NCAP ratings program to include, among other things, the incorporation of an overall vehicle score that is derived from the vehicle's frontal crash, side crash, and rollover resistance ratings. This final rule amends NHTSA's regulation on vehicle labeling of safety rating information to reflect the enhanced NCAP ratings program.

DATES: The final rule is effective August 29, 2011.

Petitions for Reconsideration: If you wish to petition for reconsideration of this rule, your petition must be received by September 12, 2011.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

The petition will be placed in the docket. 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 comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and follow the online instructions for accessing the docket. You may also visit DOT's Docket Management Facility, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001 for on-line access to the docket.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Ms. Jennifer N. Dang, Office of Crashworthiness Standards (*Telephone:* 202–366–1740) (*Fax:* 202–493–2739). For legal issues, you may call Mr. Steve Wood, Office of the Chief Counsel (*Telephone:* 202–366–2992) (*Fax:* 202–366–3820). You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590–0001.

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I. Overview of NCAP and Congressional Mandate

Under its New Car Assessment Program (NCAP), the National Highway Traffic Safety Administration (NHTSA) subjects vehicles to frontal crash, side crash, and rollover resistance tests and, based on the results, assigns safety ratings to the tested vehicles. The ratings are expressed in terms of a 5-star rating system, with five stars being the highest rating and one star the lowest. The ratings would enable consumers to consider and assess the relative safety of vehicles before deciding which new vehicle they want to purchase. The labels would also provide an incentive for vehicle manufacturers to make voluntary improvements in the safety of their vehicles beyond the minimum levels of performance required by the Federal motor vehicle safety standards.

The following overview describes two separate, on-going efforts to improve the NCAP program: (1) Requiring that the NCAP information be placed on labels on new passenger vehicles and (2) upgrading the NCAP information, most significantly by introducing an overall safety rating.

In 2005, Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).[1] Section 10307 required new passenger vehicles to be labeled with either the safety ratings it had received under NCAP or a statement that the vehicle had not been rated under NCAP. The ratings must be displayed on its new vehicle price sticker, known as the Monroney label. The Monroney label is required by Federal law[2] and is affixed to the side window showing the price of the vehicle and the options installed. The Monroney label on all light vehicles is required to show, among other things:

- The manufacturer's suggested retail price (MSRP) of the base vehicle;
- The MSRP of each accessory and each item of optional equipment installed on the particular vehicle;
- The transportation charges for delivery of the vehicle from the manufacturer to the dealer; and
- The total MSRP of all of the above.

SAFETEA–LU also required that the safety rating information be presented in a legible, visible, and prominent fashion, and that the safety rating area of the Monroney label meet minimum size requirements[3] and specified a statement to be provided if no safety rating information is available for a particular vehicle model.[4]

In addition to the MSRP and safety ratings information, Congress has also permitted the information from two other Federal programs to appear on the Monroney label. The Energy Policy Conservation Act (EPCA) requires that the Environmental Protection Agency (EPA) issue regulations requiring vehicle manufacturers to attach a prominently placed label that provides information on:

- The vehicle's fuel economy;
- The estimated annual fuel cost of operating the vehicle;
- The range of fuel economy of comparable vehicles by all manufacturers; and
- A statement that a booklet is available from the dealer to compare the fuel economy of other vehicles manufactured by all manufacturers for the model year.[5]

In 2007, Congress amended the Energy Independence Security Act (EISA) by, among other things, mandating that NHTSA issue a rule requiring that greenhouse gas emissions as well as new fuel economy information be placed on labels affixed to new vehicles.[6] Pursuant to EISA, NHTSA and EPA published a final rule to revise substantially the fuel economy labeling requirements.[7]

Finally, the Motor Vehicle Information and Cost Savings Act requires that information on domestic and foreign content be provided on new vehicle labels.[8]

On September 12, 2006, the agency published a final rule implementing the NCAP safety labeling requirements of SAFETEA–LU by establishing a new regulation, 49 CFR 575.301, *Vehicle Labeling of Safety Rating Information,*[9] that required vehicle manufacturers to incorporate a distinct safety rating label into the Monroney label.

The final rule provided that:

(1) New passenger automobiles manufactured on or after September 1, 2007, must display specified NCAP information on a safety rating label that is part of their Monroney label;

(2) The specified information must include a graphical depiction of the number of stars achieved by a vehicle for each safety test;

(3) Information describing the nature and meaning of the test data, and references to *http://www.safercar.gov* and NHTSA's toll-free hotline number for additional vehicle safety information, must be placed on the label;

[1] Public Law 109–59 (August 10, 2005; 119 Stat. 1144).

[2] The Automobile Information Disclosure Act (AIDA) (Title 15, United States Code, chapter 28, Sections 1231–1233) was enacted into law in 1958, and is also called the ''Monroney Act,'' after its sponsor, Senator Monroney of Oklahoma. The Monroney Act requires all new light vehicles to have a label affixed to the side window showing the price of the vehicle and options installed. The information required to be labeled on the window by the Monroney Act remained unchanged from its passage in 1958 until 2005 when Congress enacted SAFETEA–LU.

[3] 15 U.S.C 1232(g) states that if one or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that (1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating; (2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests); (3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including *http://www.safercar.gov*; and (4) is presented in a legible, visible, and prominent fashion and covers at least—(A) 8 percent of the total area of the label; or (B) an area with a minimum length of 4½ inches and a minimum height of 3½ inches.

[4] 15 U.S.C. 1232(h) states that if an automobile has not been tested by NHTSA under NCAP, or safety ratings for such automobile have not been assigned in one or more rating categories, the label must contain a statement to that effect.

[5] 49 U.S.C. 32908(b)(2) expressly provides that the EPA ''may allow a manufacturer to comply with this subsection by disclosing the information on the label required under * * * the Automobile Information Disclosure Act (15 U.S.C. 1232).''

[6] 49 U.S.C. 32908(g).

[7] 76 FR 39478; July 06, 2011.

[8] 49 U.S.C. 32304(g) provides that NHTSA ''shall permit a manufacturer to comply with this section by allowing the manufacturer to disclose the information * * * on the label required under * * * the Automobile Information Disclosure Act (15 U.S.C. 1232).''

[9] 71 FR 53572, Docket No. NHTSA–2006–25772.

(4) The label must be legible and visible with a minimum length of 4½ inches and a minimum height of 3½ inches or cover at least 8 percent of the total area of the Monroney label, whichever is larger;

(5) Ratings must be placed on new vehicles manufactured 30 or more days after the manufacturer receives notification from NHTSA of NCAP ratings for those vehicles.

In its discretion, the agency decided to require that the label indicate the existence of events that occurred during NCAP testing and that produced safety concerns, but are not reflected in the resulting NCAP ratings. The final rule also required that the agency's toll-free-hotline number appear on the label and adopted specifications for such matters as the wording and arrangement of some of the messages and the font sizes that apply in various areas of the label.

On July 11, 2008, the agency published a final decision notice in which it described the NCAP enhancements it was adopting.[10] These enhancements include:

- For the frontal crash program—modifying the frontal NCAP rating system to reflect updated test dummies, expanded injury criteria, and the inclusion of all body regions that are covered by Federal Motor Vehicle Safety Standard (FMVSS) No. 208;
- For the side crash program—modifying the side NCAP rating system to reflect new side impact test dummies, new injury criteria, the inclusion of nearly all of the body regions that are covered by FMVSS No. 214, as well as a new side pole crash test using a small female crash test dummy;
- A new overall vehicle score based on frontal crash, side crash, and rollover resistance test results; and
- A new program that will provide consumers with information concerning the availability of advanced crash avoidance technologies that meet NHTSA's performance criteria and that have been shown to reduce crashes.

The final decision notice did not announce any changes to the NCAP rollover resistance testing and rating system.

The enhancements to NCAP took effect in the 2011 model year. The associated safety ratings are based on the test protocols and rating system in the July 2008 notice.

II. Summary of the Notice of Proposed Rulemaking

On March 9, 2010, NHTSA published in the **Federal Register** (75 FR 10740) (Docket No. NHTSA–2010–0025) a notice of proposed rulemaking (NPRM) to revise the agency's regulation on vehicle labeling of safety rating information to reflect the enhancements to the NCAP program, particularly the addition of the overall vehicle score.

The major proposals in the NPRM included:

(1) Beginning with model year 2011, safety rating labels on new passenger vehicles that are manufactured on or after September 1, 2010 would be required to include, as the first item of safety information in the safety rating label, an overall vehicle score based on a vehicle's frontal crash, side crash, and rollover resistance ratings. The agency would allow early compliance for model year 2011 vehicles that are manufactured before September 1, 2010;

(2) Language describing the nature and meaning of the NCAP test data used to generate vehicle safety ratings and a referral to *http://www.safercar.gov* for additional vehicle safety information in the safety rating label would be revised slightly and, in some cases, relocated in the safety rating label;

(3) Safety concerns identified as a result of NCAP testing would need to be displayed in the overall vehicle score area of the safety rating label and in the appropriate area of the safety rating label to which the safety concern applies (frontal, side, or rollover); and

(4) The proposed regulation applying to model year 2011 and later vehicles (manufactured on or after September 1, 2010) would be designated as 49 CFR 575.302. The existing regulation, with minor conforming amendments, would continue to be at 49 CFR 575.301.

Discussion of Minimum NCAP Label Size in September 2010 CAFE/Greenhouse Gas Labeling Proposal

In a proposal published on September 23, 2010 to implement EISA's CAFE/greenhouse gas labeling requirements,[11] NHTSA noted the Advocates for Highway and Auto Safety (Advocates) and Robert Bosch LLC (Bosch) raised questions about the agency's interpretation, announced in the September 2006 final rule,[12] that SAFETEA–LU's specification of a minimum size for the label indicated that the agency did not have any discretion to specify a larger minimum size. The Advocates and Bosch argued that the statutory specification merely established a floor on the discretion of the agency to specify a minimum size. The agency stated in the 2010 proposal that it was re-examining its interpretation.

III. Summary of Comments on the NPRM

In response to the NPRM, NHTSA received comments from 8 organizations representing motor vehicle manufacturers and their associations, automotive suppliers, as well as consumer and dealer groups. The motor vehicle manufacturer associations included: the Alliance of Automobile Manufacturers (Alliance) and the Technical Affairs Committee of the Association of International Automobile Manufacturers (AIAM).[13] Vehicle manufacturers included: Honda Motor Co., Ltd. (Honda), Nissan Motor Co., Ltd. (Nissan), and Volvo Car Corporation (Volvo). Bosch was the single automotive supplier that provided comments. Consumer and dealer groups included the Advocates and the National Automobile Dealers Association (NADA), respectively.

Vehicle manufacturers and their associations were generally supportive of the proposals in the NPRM for revising the Monroney label content to reflect the new program; however, they mainly expressed concern over the proposed amount of lead time for meeting the new requirements and other logistical challenges. Bosch strongly supported the inclusion of collision mitigation (active safety) rating information on the Monroney label.

The Advocates expressed concerns about the presentation of information and safety concerns on the vehicle disclosure label, and consumer understanding of the NCAP star safety ratings. Specifically, the Advocates urged NHTSA to increase the size of the label beyond the minimum requirement set forth in the statute, and include for consumers, what it considered to be, essential information, such as a brief statement explaining factual information and context about the safety concern warning on the vehicle and a legend conveying the association of star ratings and risk of injuries to the occupants in a particular vehicle. Also, the Advocates agreed that NHTSA should conduct research to understand better any potential tradeoffs consumers may make among the four sections currently included on the Monroney label and whether the amount of space dedicated to each of the four sections as well as the location of those four sections affect the attention consumers give the sections.

[10] 73 FR 40016, Docket No. NHTSA–2006–26555.

[11] 75 FR 58078, at 58147; September 23, 2010.

[12] 71 FR 53572, 53576, September 12, 2006.

[13] The Association of International Automobile Manufacturers is now known as the Association of Global Manufacturers.

Contrary to the Advocates' suggestion regarding the label size, NADA favored limiting the overall size of the Monroney label to minimize potential field-of-vision obstruction for new vehicle drivers. Also, NADA discussed the importance of providing consumers with ratings from all three NCAP test modes and the overall vehicle score and consistent rating information at the point of sale. NADA also offered comments in the areas of program transition and consumer education.

IV. How the Final Rule Differs From the NPRM

The changes from the NPRM are summarized in this section and explained in detail in the next section of the preamble. Today's final rule essentially adopts the provisions of the NPRM with some minor adjustments.

- The following text, ''Safety concern: Visit *http://www.safercar.gov* or call 1–888–327–4236 for more details'' (preceded by the safety concern symbol depicted in figure 4 to § 575.302 and ending with a period) is only required in the overall vehicle score area of the label. This mitigates space concerns in cases where a vehicle receives a safety concern in more than one crash test area.
- The adopted language states that frontal crash ratings and the overall vehicle score should only be compared to other vehicles of ''similar size and weight,'' rather than of ''similar weight class.''
- To minimize consumer confusion at the point of sale, the agency believes that it is critical that the final rule for the safety rating label, which includes the overall vehicle score, be published in time for placement of the revised safety rating label on model year 2012 vehicles. The final rule for the fuel economy/greenhouse gas emissions label was published in the **Federal Register** on July 6, 2011. The agency believes that the consumer research testing of the entire Monroney label will be more effective if the fuel economy/greenhouse gas emissions portion and the safety rating portion of the Monroney label are finalized. Thus, the agency chose to postpone the consumer research until revision to both portions of the Monroney label is finalized.
- The agency has slightly modified explanatory language that will be required in the side crash area of the safety rating label to make clear that the ratings reflect risks involved in a real-world side impact crash, rather than risks associated with the two crash tests that are used to determine the side crash ratings.
- Finally, the final rule extends the compliance date of the revised safety rating labels from September 1, 2010 to January 31, 2012 for the model year 2012 and beyond, in order to provide sufficient lead time for vehicle manufacturers to prepare for the implementation of the revised labels. Passenger vehicles manufactured on or after January 31, 2012 will be required to have the new safety rating label, and early compliance will be permitted for model year 2012 vehicles that are manufactured before January 31, 2012, provided that the ratings placed on the safety rating label are derived from vehicle testing conducted by NHTSA under the enhanced NCAP testing and rating program.

V. Response to Comments and Agency Decisions

The majority of the proposed amendments in the NPRM dealt with label content. The NPRM also discussed: whether to include crash avoidance technology information on the label, the agency's process for rating notification, timing, consumer education and proposed compliance date.[14] In the following sections, we describe the public comments in these areas and explain the agency's response.

A. Applicability

NHTSA proposed that all changes to the safety rating label proposed in the NPRM would apply to safety rating labels in the Monroney labels of passenger vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less. It was further proposed that vehicles that have a Monroney label and that have been rated in at least one area under NCAP would need to display those ratings. The phrase ''not rated'' would be used in other areas. Also, the phrase ''to be rated'' may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. As an alternative, vehicles that display a Monroney label and that have not been rated under NCAP would be required to include in their Monroney label a smaller vehicle safety rating label, which indicates that the vehicle has not been rated.

One commenter, NADA, urged NHTSA to make sure that if a vehicle is tested for any of the three NCAP modes that it be tested for all of the modes so that all information on the label, including the overall vehicle score, is provided. Failure to have complete information on the label is confusing and limits a label's utility for purposes of making vehicle comparisons, the organization said. As an alternative, it suggested there should be three label options. One would have the overall vehicle score section and would be used when tests have been conducted and information for all three test modes can be displayed along with the overall vehicle score. The second would be similar to the current label and would be used in cases where less than the complete set of NCAP tests has been completed. The third would be used for untested vehicles.

NADA further objected to the use of the phrase ''to be rated'' since it considered it confusing, and said the phrase ''not rated'' should suffice.

Agency Response: The agency agrees that NCAP is more effective when all possible ratings for a vehicle are available and displayed on the safety rating label for that vehicle and on the agency's Web site, *http://www.safercar.gov.* The agency has made a concerted effort in recent years to assure that vehicles tested under NCAP undergo all relevant tests. It has also worked towards ensuring that all testing occurs in a narrow window of time so that all of the test results and ratings become available simultaneously. These two efforts have minimized incomplete information on the safety rating labels and on the Web site.

During the 2011 model year, as NCAP transitions from the previous testing and rating system to the enhanced system, there may be more situations than the agency would like in which only partial ratings are available for vehicles. This is due largely to the fact that some rollover resistance ratings in many cases carry over from the previous model year, since there has been no change to the rollover testing and rating system, while no crash ratings will carry over because all model year (MY) 2011 vehicles need to be crash tested and safety rated using the enhanced NCAP testing and rating system. The agency fully expects that within a few years, all vehicles rated under NCAP will have complete ratings.

The agency believes NADA's suggestion for three different label options, with each option geared to the amount of ratings information available for a given vehicle, would not be used by manufacturers because of the practical and cost considerations involved. Two label options are already available to manufacturers in the current regulation and will be available under this final rule. One contains areas for all possible NCAP ratings. The other may be used if no ratings have been

[14] For a complete discussion of the issues raised in the NPRM, please refer to the March 9, 2010 NPRM (75 FR 10740).

developed for a vehicle. The latter is smaller and simply states, ''This vehicle has not been rated by the government for overall vehicle score, frontal crash, side crash, or rollover risk.'' This seems to be comparable with the third option suggested by NADA.

The use of these two label options along with either of the phrases ''to be rated'' or ''not rated'' in the appropriate circumstances helps to keep safety in the minds of consumers as they shop for new vehicles. The phrase ''to be rated,'' in particular, which NADA suggested be dropped as an option for manufacturers, communicates to a consumer interested in a particular vehicle, but also interested in safety, that safety information will be available for that vehicle at some future time. Presumably some consumers may wait to purchase a new vehicle until safety information for that vehicle is available. Without the ''to be rated'' designation and ''not rated'' in its place, consumers might drop the vehicle from consideration.

For these reasons, the agency has decided to continue with the two label options that are currently in the regulation and the allowable use of the phrases ''to be rated'' for instances when ratings are not yet, but will be, available and ''not rated'' for when a vehicle has not been, and will not be, tested and rated for that model year.

B. Label Content

1. Space Available on the Label

The NPRM proposed modifying the safety rating label to incorporate a new area of the label for the overall vehicle score. This area would be located immediately below the heading area and would be the first item of safety information. The format of the remainder of the safety rating label would be very similar to the current safety rating label, except that language explaining the 5-star rating system and other language indicating that NHTSA is the source of the safety information contained in the safety rating label would now be incorporated into the footer area of the label, rather than be displayed in its own area of the label. As is currently the case, the areas of the label whose background is light in color—overall vehicle score, frontal, side, and rollover—would continue to be required to be separated from each other by a dark line that is a minimum of 3 points in width. The NPRM also proposed to require, whenever a safety concern arises in any rating category, that the safety concern symbol and related statement also be included in the overall vehicle score area of the safety rating label.

While offering general support for the content and layout of the proposed label revisions, the Alliance expressed concern that there may not be sufficient space on the label to accommodate safety concerns in more than one of the areas in which safety ratings are provided. This is because the text, ''Safety concern: Visit *http://www.safercar.gov* or call 1–888–327–4236 for more details'' (preceded by the safety concern symbol depicted in figure 4 to § 575.302 and ending with a period) would be required in each of the areas in which a safety concern is noted as well as in the overall vehicle score portion of the label. The Alliance suggested that this could be easily addressed by requiring the safety concern text only in the overall vehicle score area of the label while continuing to require only the safety concern symbol in those ratings areas of the label where the safety concern occurred.

Honda stated its testing of the proposed label layout indicated that ''the content of the proposed label does not fit into the proposed minimum text box using the prescribed font sizes while maintaining the required one-eighth inch white space margin.'' Honda also stated that the overall vehicle score should be ''sufficiently distinctive'' from the three supporting ratings categories for two reasons. First, presenting the overall vehicle score in a distinctive way would help to discourage comparisons between the current and new label. Second, the company said the visual presentation of the overall vehicle score should make clear to consumers that it represents a combination of the frontal, side, and rollover ratings. Both of these concerns ''could be addressed by enlarging the font size of the overall vehicle score and affiliated star ratings,'' the company said.

Honda submitted a mock up of its vision of a revised label in which the font size for the overall vehicle score would be enlarged and the frontal, side, and rollover ratings would consist of one line, with no distinct ratings that apply to the driver and passenger.[15] The company said the proposed label it submitted is consistent with what the company sees as the need for the overall vehicle score to be more prominently displayed. The company also stated that by limiting the ratings in specific areas to one line (as opposed to the two in the current label), would allow additional space to address the company's concern that there is not enough label space to include all of the information that is proposed. The extra label space would accommodate any future additions to the label, such as advanced crash avoidance technology ratings, the company stated.

Agency Response: In drafting the NPRM, the agency did not factor in situations in which a safety concern could be identified in more than one relevant crash area. Therefore, the agency agrees with the Alliance that for the safety rating label to accommodate the text ''Safety concern: Visit *http://www.safercar.gov* or call 1–888–327–4236 for more details'' (preceded by the safety concern symbol depicted in figure 4 to § 575.302 and ending with a period) in the overall vehicle score area of the label and in one or more of the areas (frontal crash, side crash, or rollover) in which a safety concern is identified, additional label space will be required.

The agency also finds merit in the Alliance's proposed solution. The most important function of the text is to refer consumers to *http://www.safercar.gov* for more detailed information on the safety concern or concerns. This need can be adequately met by having the text only in the overall vehicle score area. While there may have been additional value in also having the text in the area or areas reflecting the type of test in which the safety concern arose, doing so is not necessary, particularly in light of the space limitations of the safety ratings label under the current interpretation of SAFETEA–LU. The safety concern symbol will be required both in the area (or areas) of the label for the type of test in which the safety concern occurred as well as in the overall vehicle score area. However, the text, ''Safety concern: Visit *http://www.safercar.gov* or call 1–888–327–4236 for more details'' (preceded by the safety concern symbol depicted in figure 4 to § 575.302 and ending with a period) will only be required in the overall vehicle score area. We believe that limiting the text to the overall vehicle score area of the label will also help address Honda's concern about available space on the label.

The agency is not adopting Honda's suggestion to make the overall vehicle score area of the safety rating label more prominent. NHTSA recognizes that the context within which the prominence of the safety ratings information can be assessed includes not simply the safety rating label itself, but also the entire Monroney label, which contains other competing types of information and methods of presentation. Within the context of the safety ratings label itself, the overall vehicle score area already has a degree of prominence because it

[15] See Docket No. NHTSA–2010–0025–0011, Attachment 2.

is the first item of safety information in the revised safety rating label.

In addition, the agency believes that there is less of a need at this point to distinguish the current safety rating label from the revised label. Because the revised safety rating label contained in this final rule was not yet available, ratings based on the enhanced NCAP testing and rating system have been displayed on MY 2011 vehicles using the current label. As a result, the overall vehicle score has not been displayed on MY 2011 vehicles thus far even though ratings under the enhanced NCAP testing and rating system are available. This means that when the revised safety rating label goes into effect on January 31, 2012, safety ratings on MY 2011 and MY 2012 vehicles on dealers lots will all be based on the enhanced NCAP testing and ratings system, whether the ratings appear on the current or revised safety rating label. The only difference will be that vehicles with the revised safety rating label will display the overall vehicle score, while vehicles with the current safety rating label will not.

The answer to any consumer's concern as to why the overall vehicle score appears on some labels and not others will be simple. The overall vehicle score applies to all identical makes and models in the same model year. If a MY 2012 vehicle has not been changed from the MY 2011 version of the vehicle, the same NCAP ratings will apply to both model year vehicles, including the overall vehicle score that will appear on the safety rating label of the MY 2012 version of the vehicle.

Furthermore, while the agency wants consumers to be aware of and use the overall vehicle score as a quick and easy measure of relative overall vehicle safety, it does not want that to occur in such a way that it diverts attention from the other safety ratings on the label. There will be situations in which a vehicle gets an overall vehicle score that is higher than one or more of the individual ratings that appear in other portions of the safety rating label. Some consumers may be as interested or more interested in those ratings as in the overall vehicle score. Parents, for example, may be very interested in the rear seat side crash rating because they know their children will be traveling primarily in the rear seat of their vehicle.

2. Safety Concern Symbol

For vehicle tests for which NHTSA reports a safety concern as part of the star rating, the NPRM proposed requiring a symbol consisting of an exclamation point inside a triangle (safety concern symbol) to be depicted as a superscript to the star rating, and the same symbol to be depicted at the bottom of the relevant area along with the words ''Safety Concern: Visit *http://www.safercar.gov* or call 1–888–327–4236 for more details.''

The Advocates commended NHTSA for including the safety concern symbol and the accompanying reference to *http://www.safercar.gov* and the agency's hotline in the area of the label to which a safety concern applies. The Advocates said that a ''brief, but specific statement as to the nature of the safety concern'' should also be provided. The organization provided examples such as, ''door openings,'' ''doors unable to open after crash test,'' and ''doors opened during side impact compliance test.'' This is warranted, the Advocates suggested, because at the point of sale consumers will generally not have access to *http://www.safercar.gov* or the agency's hotline. Consumers will, in some situations at least, ignore the safety concern symbol, the Advocates added.

NADA objected to the use of the safety concern symbol stating that ''dealers surveyed continue to suggest that these symbols can raise unnecessary questions for prospective purchasers.'' The association asked that only the footnote, ''Visit *http://www.safercar.gov* for more safety information on this vehicle,'' be required if, and when, necessary.

Honda stated that having safety concerns expressed in both the overall vehicle score area of the label and the rating category in which the safety concern occurred ''may mislead consumers into believing a vehicle with a single safety concern has two safety concerns.'' Honda stated, ''* * * we propose that only the safety concern symbol be included as superscript to the overall rating when it is applicable, without the accompanying text. We suggest that the text explaining the safety concern would only be printed as necessary in the frontal crash, side crash or rollover area(s), along with the safety concern symbol as superscript to the relevant rating area.''

Agency Response: We are denying the request to add explanatory language to the safety concern symbol. The Advocates' suggestion demonstrates the delicate balance that exists between the amount of information that could go on the label and the amount of space available under the current interpretation of the minimum size language in SAFETEA–LU. It also raises the issue of how much information on the label consumers have the ability to digest. The safety rating label is intended to provide consumers with easy to access and understandable information at the point of sale as to the relative safety of the vehicle(s) they are considering for purchase. The Web site *http://www.safercar.gov* and the agency's hotline, noted on the safety rating label, are intended to assure that consumers who want more detailed information relating to the safety of a vehicle, such as the type of information addressed in the Advocates' comments, can take the time and do more thorough research on the safety of the vehicle(s) in which they are interested. We believe the current safety rating label could not reasonably accommodate such detailed information, particularly in cases where more than one safety concern exists, as mentioned by Honda.

While we acknowledge that some consumers may choose to ignore the safety concern symbol, as suggested by the Advocates, we believe that such a symbol will cause other consumers to question their dealer, or pause long enough to obtain more information on the agency's Web site, before purchasing a vehicle with a safety concern symbol on its safety rating label. This was evidenced by NADA's comments suggesting that the safety concern symbol raises questions with consumers.

We disagree that the consumer questions raised by the safety concern symbol are ''unnecessary,'' as suggested by NADA. NCAP is a consumer information program and its purpose is to provide consumers with safety information relating to vehicles. This information includes safety concerns identified during testing of vehicles under NCAP. Information available through *http://www.safercar.gov* and the agency's hotline is provided to help dealers in need of assistance in explaining the safety concern to a potential vehicle purchaser.

In response to Honda's concern about multiple safety concern symbols confusing consumers, the agency's decision earlier in this notice to limit to the overall vehicle score area of the label language referring a consumer to either *http://www.safercar.gov* or the agency's hotline for further information about a safety concern will help consumers understand that there are not multiple safety concerns involved.

3. Similar Weight Comparison Language

The NPRM proposed that the language ''Should *only* be compared to other vehicles of similar weight class'' be in both the frontal crash area and overall vehicle score area of the safety rating label.

NADA asked whether this phrase can be used for all crash modes. If so, it said the phrase should be moved to the footer area of the label and rewritten to read, ''*only* compare these ratings to those for [16] similar vehicles.'' If the phrase cannot be used for all crash modes, the association suggested that it be kept in the rating sections that apply but be rewritten to read, ''*only* compare this rating to the same for [17] similar vehicles.''

Agency Response: The type of qualifying language referred to in NADA's comments previously applied only to frontal crash ratings because the frontal crash test involves crashing a vehicle into a stationary barrier. For this type of test, the weight of the vehicle is a factor in how well the vehicle performs in the test. Since the frontal crash rating is a component used in determining the overall vehicle score, the same type of language was proposed in the NPRM for the overall vehicle score area of the safety rating label. Such language is not necessary for the side crash ratings because vehicle weight is less of an influence on injury outcome and side crash ratings can be compared with one another. The same is true of rollover safety ratings. All vehicles are put through the same dynamic maneuver during a rollover resistance test. The probability of the vehicle rolling over if it is involved in a single-vehicle crash is unrelated to the weight of the vehicle.

Therefore, today's final rule requires that the following language be in both the overall vehicle score and frontal crash areas of the safety rating label: ''Should *only* be compared to other vehicles of similar size and weight.'' We note that the agency decided to retain language from the current safety rating label rather than adopt the proposed language, ''* * * of similar weight class.'' The term ''weight class,'' as defined in the regulation [18] governing Vehicle Identification Numbers, includes weight ranges that are too broad and not necessarily appropriate for NCAP weight range comparisons. In the NCAP frontal crash test ratings and overall vehicle score, vehicles whose weights are no more than 114 kg (250 pounds) apart should be compared as to their relative safety. We are also not adopting NADA's alternatively proposed language, ''*only* compare this rating to the same for similar vehicles,'' since it is not clear how to identify a similar vehicle.

4. The Need To Better Distinguish Between Current and Revised Label

The modified safety rating label proposed in the NPRM did not differ significantly from the current label. The main difference is that the NPRM label included a new area at the top of the label for reporting a vehicle's overall vehicle score. For other sections of the safety rating label, the NPRM merely proposed revising the language describing the nature and meaning of the vehicle crash safety information that is displayed in the frontal crash and side crash areas of the safety rating label.

Honda commented that the current safety rating label and the revised label are not visually distinctive enough to prevent consumers from believing that the labels are the same and comparing the old and new ratings. The company suggested that the ratings on the revised label be expressed as a single series of stars for each of the four ratings categories. Under this approach, the company said, it would not be possible for consumers to compare the current and new frontal and side ratings.

Agency Response: The agency believes that the proposed label and the current label are sufficiently distinctive. The fact that the proposed label contains the overall vehicle score, while the current safety rating label does not, provides a sufficient basis for consumers to distinguish between the two labels. Honda's concern about consumers believing the current and revised safety rating label are the same should be mitigated because, as explained previously, the new ratings are already being displayed on the current label. (See further discussion in ''Labeling Before and After NCAP Testing.'')

NHTSA decided against Honda's suggestion to use a single series of stars in each of the ratings areas—frontal crash, side crash, and rollover. As will be discussed further in this final rule, NHTSA's consumer research indicated that consumers want crash ratings for individual seating positions, which requires separate star ratings on the safety rating label for each rating area.

C. Absence of Crash Avoidance Information on the Label

The NPRM did not propose including advanced crash avoidance technology information on the safety rating label at this time. As discussed in the NPRM, to do so would require a rulemaking every time the agency wanted to add to the list of advanced crash avoidance technologies in the program, and there is also limited space available on the safety rating label under the current interpretation of SAFETEA–LU.

Bosch expressed concern over the absence of advanced crash avoidance technology information on the safety ratings label. It suggested that studies around the world have demonstrated the benefit of these technologies. The absence of information on these technologies from the safety rating label will undercut the agency's goal of creating market forces to drive the inclusion of these technologies in more and more vehicles, the company said. It further suggested that it will be inconsistent and confusing to consumers to have crash avoidance technology information on the Web site, *http://www.safercar.gov,* and not on the safety rating label.

Bosch said, at a minimum, that basic information indicating the availability of advanced crash avoidance technologies should be on the safety rating label either as a list or by using a check box. It indicated its strong preference that such information use the same 5-star ratings approach used for frontal and side crash and rollover resistance ratings with advanced crash avoidance technology ratings based on driving tests that assess system performance.

The company said few consumers use *http://www.safercar.gov* to conduct safety research before making vehicle purchasing decisions. Bosch further stated that the need to go through rulemaking to change the safety rating label whenever a new technology is added to the list of technologies in the NCAP program would not occur frequently and therefore would not be an ''undue burden.'' Bosch said that since SAFETEA–LU (Pub. L. 109–59) prescribes only the minimum size of the safety rating label, the safety rating label could be made larger to accommodate crash avoidance technology information.[19] The company submitted a proposed safety rating label that includes crash avoidance technology information at the top of the label followed by the information contained in the NPRM.

In addition to the written comments it submitted, Bosch met with NHTSA staff on April 30, 2010 [20] to discuss their recommended approach for communicating the availability of

[16] NADA cited ''for similar vehicles.'' The assumption was made that NADA meant ''of similar vehicles.''

[17] NADA cited ''for similar vehicles.'' The assumption was made that NADA meant ''of similar vehicles.''

[18] Part 565, ''Vehicle Identification Number (VIN) Requirements,'' contains a table in 565.15 titled ''Gross Vehicle Weight Rating Classes.'' The defined vehicle classes range from 0 to 3,000 pounds (lbs.), 3,001 to 4,000 lbs., 4,001 to 5,000 lbs. *etc.* up to 10,000 lbs. for light vehicles.

[19] See Docket No. NHTSA–2010–0025–0004.1.

[20] See Docket No. NHTSA–2010–0025–0013.1.

advanced safety technologies on the rating labeling portion of the Monroney label. Bosch suggested that if NHTSA uses more general crash avoidance technology on the Monroney label, such as ''collision mitigation'' rather than ''collision warning,'' this would eliminate any need for frequent revisions of the label as crash avoidance technologies progress. Bosch indicated that it strongly supports the incorporation of crash avoidance technologies on the Monroney label because it does not believe including crash avoidance technologies on *http://www.safercar.gov* alone provides sufficient consumer awareness of the technologies and their safety importance. Furthermore, it indicated that consumer awareness of crash avoidance technologies and consumer demand for them is crucial to having vehicle manufacturers incorporate the technologies into their vehicles.

On July 15, 2010,[21] Bosch also requested a meeting with NHTSA to present the results of research it had conducted to study new car buyers' information gathering processes and the impact of government listing of collision mitigation technologies on purchasing decisions. The research involved an Internet-based survey of 500 recent and soon-to-be new car buyers broken into two groups, one of which was presented with a sample window sticker that included what was portrayed as a government listing of collision mitigation features. The other was presented with a sample window sticker without such information. Bosch found that 58 percent of the group that was presented with a government listing of optional collision mitigation features, specifically lane departure warning and forward collision warning, indicated they would purchase a vehicle equipped with this equipment. Only about 45 percent of the group that was not presented with a government listing of this equipment indicated they would purchase a vehicle with this equipment. Based on these results and others from its survey, the company said that government recognition of collision mitigation systems increases the value of collision mitigation technologies to new car buyers.

Volvo also expressed concern that ''advanced safety systems'' information was excluded from the proposed label. It suggested that an area for this information be provided on the label or that manufacturers be allowed to affix an optional separate label to the vehicle to provide information about these systems. The company suggested that if the information were allowed on the label, its size could be reduced to facilitate its incorporation into available space. The company also suggested that consumers would benefit from a NHTSA rating system for these systems.

NADA said it appreciated NHTSA's reasons for not requiring advanced crash avoidance technology information on the label. It urged NHTSA to include a line in the header that would say, ''See *http://www.safercar.gov* [22] for this vehicle's crash avoidance features.'' It also asked that NHTSA urge manufacturers to include crash avoidance features in the description of standard and optional components found elsewhere on the Monroney label.

Agency Response: While the idea of a 5–Star rating system based on dynamic testing of advanced crash avoidance technologies, as suggested by Bosch and Volvo, is an appealing concept, the agency's experience has shown that developing testing protocols and rating systems is a lengthy and detailed process involving the gathering and analysis of data and conducting carefully designed and executed research. The creation and dissemination of advanced crash avoidance technology information on the agency's *http://www.safercar.gov* Web site is the first step in providing consumers with information about these technologies and their potential to avoid crashes and thus save lives and prevent injuries. Recently, the *http://www.safercar.gov* Web site was upgraded to support the enhanced NCAP program and it receives approximately 146,000 visitors per month. We have found this to be an effective platform for sharing information with the public and it can also be amended and updated with minimal difficulty. Conducting a formal rulemaking to amend the Monroney label is a far more burdensome process, even if technologies were grouped in generic categories such as ''collision mitigation.'' Furthermore, the agency is proceeding very deliberately in the advanced crash avoidance technologies area, promoting only three technologies that meet carefully considered criteria, and doing so within the limits of currently available resources. As more and more advanced crash avoidance technologies with demonstrated effectiveness become available, the agency will consider what additional steps are appropriate to take in providing consumers with information about the benefits of these technologies. For now, however, we believe that the approach taken is appropriate for their current state of the development.

As to the suggestion by Bosch that the safety rating label should be made larger to accommodate information not proposed in the NPRM, we simply note that the jurisdiction over the Monroney label is shared by the U.S. Environmental Protection Agency (EPA), NHTSA, and the U.S. Department of Justice (DOJ). NHTSA cannot unilaterally take space on the Monroney label.

NHTSA does not believe it is appropriate to use government sanctioned labels to promote advanced crash avoidance technologies as suggested by Volvo. There is nothing, however, to prevent a manufacturer, a dealer or even a supplier, such as Bosch, from developing materials that can be made available in showrooms and that promote the fact that there are advanced crash avoidance technologies on a vehicle that meet NHTSA's performance criteria and that have been shown to reduce crashes. In fact, the advertisement can be in the form of a pop-up tent display on a vehicle, window cling, or a separate label, as long as it does not cover the Monroney label. NHTSA has provided guidelines for promoting advanced crash avoidance technologies. Manufacturers may access the agency's guidelines via *http://www.safercar.gov*.[23]

The agency is not adopting NADA's suggestion to include language on the safety rating label that points consumers to *http://www.safercar.gov* for information about a vehicle's advanced crash avoidance technologies. This is primarily due to the limited amount of space on the safety rating label, especially under the current interpretation of SAFETEA–LU.

Finally, in response to NADA's request for NHTSA to urge manufacturers to ''include crash avoidance features in the description of standard and optional components found elsewhere on the Monroney label,'' we are not persuaded by the need to do so. The agency has selected three technologies—Electronic Stability Control (ESC), Forward Collision Warning (FCW), and Lane Departure Warning (LDW), to include in NCAP's advanced crash avoidance technologies program. One of the criteria it used in determining which technologies to include in the program is whether there is data that demonstrates the effectiveness of a technology in

[21] See Docket No. NHTSA–2010–0025–0015.

[22] NADA cited *http://www.safercars.gov* in their comments. The assumption was made that NADA meant *http://www.safercar.gov.*

[23] *http://www.safercar.gov/Vehicle+Manufacturers/NCAP+Advertising+Guidelines#crash.*

reducing crashes. Each of the three technologies selected has been shown to be effective in reducing crashes. Other advanced technologies do not yet meet this criterion. Rather than have the agency urge manufacturers to list advanced crash avoidance technologies that have not yet been shown to be effective, the primary challenge for the agency is to educate the public as to the effectiveness of the three technologies in the NCAP advanced crash avoidance technologies program so that the public will understand the value of these technologies no matter where they are listed.

D. Costs Associated With New Labels

The NPRM estimated the cost of the existing label to be less than $0.15 per vehicle and the requirements proposed in the NPRM would result in minor costs as they would simply require redesign of that label.

Volvo disagreed with the agency's cost assessment. It said that for a manufacturer its size, the cost (per vehicle) increases to approximately $0.45, which is a 67 percent increase, and represents ''a significant economic consideration for a relatively small vehicle manufacturer.''

Honda said it is not able to print more than one label format at a time. It said the header and footer portion of safety rating labels must be pre-printed on label stock to accommodate the white text on a dark background specified by NHTSA for these areas. It indicated that the vehicle specific ratings are then printed on each safety rating label, specific to individual vehicle identification numbers (VINs), along with other information for that vehicle on remaining portions of the Monroney label. Monroney label printers are located at each of the company's six North American production facilities, as well as at importation ports, the company said.

Volvo further stated:

> Due to the large number of vehicles serviced by each of these printers, and the speed at which the work is completed, we are unable to print multiple label formats simultaneously. Instead, we are able to print only one label format at a time. Any solution we have considered for this concern would dramatically exceed the cost estimate of $0.15 per label as indicated in the *Rulemaking Analyses and Notices* portion of the NPRM.

Honda offered two possible solutions for preventing manufacturers from ''incurring unnecessary and exorbitant costs during the transition period from the 2010 to the 2011 model year.'' The first approach would be to delay application of the new NCAP label area until manufacturers have completed their fleet transition to the first model year in which the new label would be required. Honda suggested this would be the most flexible solution since it ''would allow each OEM to select a transition date prior to the end of the (calendar year) that best suits their business needs.'' The second solution Honda proposed would allow manufacturers to apply the revised label format to all vehicles manufactured on or after September 1st of the first year the new label is required, regardless of model year. For example, if a manufacturer continued to build model year 2010 vehicles after the date on which revised labels are required, Honda said, ''the NCAP information would require a label to state the following:

> This is a 2010 model year vehicle. Please see *http://www.safercar.gov* to obtain the Government 5-Star Safety Ratings for this vehicle. The NCAP's 5-Star Safety Ratings were updated starting with the 2011 model year. The ratings for this vehicle cannot be compared to 2011 and newer models due to differences in the 5-Star rating system.

The company said this approach may help to alleviate confusion that could arise among consumers when there are two identical vehicles on the lot, one from the previous model year, one from the model year in which the revised safety rating label is required, and the ratings for the two vehicles differ because of the two different ratings systems.

Agency Response: The changes to the safety rating label are necessary to be reflective of the enhanced program. We recognize that the cost impacts to manufacturers can vary depending upon their label-producing methods and operations. So, the costs Volvo may incur may be different than other manufacturers. We note that the original safety rating label was mandated by Congress, and the agency believes it is necessary to update the safety rating label whenever there are substantial changes to NCAP. Other than the addition of the overall vehicle score information, changes to the current label and content are minimal. Hence, the agency believes it has done everything possible to minimize the one-time cost impact on manufacturers due to the transition from one safety rating label format to another while continuing to fulfill the mandate of Congress to make NCAP safety ratings available to consumers on the safety rating label at the point of sale.

The agency believes that any limitations on Honda's limited label printing flexibility has been minimized by the fact that the new safety rating label will not be required until January 31, 2012, not September 1, 2010, as originally envisioned by the agency. This should help with the transition to the new safety rating label.

E. Labeling Before and After NCAP Testing

In the NPRM, the agency stated that it does not and will not require manufacturers to reprint Monroney labels for vehicles that were produced prior to the agency's notification of new NCAP test results. However, the agency indicated that manufacturers are allowed to voluntarily re-label vehicles, should they choose, by replacing the entire Monroney label (not just the safety rating label with the NCAP information).

NADA suggested NHTSA require manufacturers to send out replacement Monroney labels for vehicles already on dealer lots when manufacturers receive the results of new NCAP tests. It suggested that this will avoid consumer confusion in situations where two same make and similarly equipped model vehicles on the same lot can have two different labels, one on the vehicle that arrived before the enhanced NCAP tests and ratings, and one that arrived afterward. This will be especially important during the transition to the new label, the association said.

Agency Response: The agency will not require manufacturers to send out replacement Monroney labels to dealers. Whether a manufacturer chooses to send out replacement Monroney labels is a business decision for the individual manufacturer. The transition to the revised safety rating label is a one-time event, and the impact it has on individual manufacturers will vary depending on when they begin manufacturing new model year vehicles. For some manufacturers, there may be only a small number of unsold vehicles with current safety rating labels on dealer lots as of the date when the revised safety rating label is required.

As previously discussed, the situation has already been ameliorated somewhat by the fact that MY 2011 vehicles have already begun displaying ratings based on the enhanced NCAP rating system in the current safety rating label. So, while there may be situations in which there will be the same model year, make and model vehicles on a dealer's lot with different labels, there will not likely be the same make and model vehicles from different model years with different ratings. The only difference that will occur will be that one vehicle will not have the overall vehicle score while the other version will. So when consumers raise questions about it, the satisfactory

answer will be that the overall vehicle score applies to both vehicles because they are identical.

F. Consumer Survey and Label Research

In the NPRM, the agency requested comments on whether its planned follow-up consumer testing for the safety section of the label should include all four items that might appear on the Monroney label (price, safety, fuel economy/greenhouse gas emissions, and domestic content) to help the agency understand better any potential tradeoffs consumers may make among those items and whether the relative amount of space dedicated to each of the four items and the different ways in which these items are presented affects the attention consumers give the items, especially the safety information. The agency also solicited public comments on the benefits the public would receive from a coordinated approach to any revision of the Monroney label among the three agencies with authority over the different sections (DOJ for price information, EPA/NHTSA for fuel economy/greenhouse gas emissions, and NHTSA for safety and domestic content), and whether those benefits would outweigh any delays that might occur to achieve comprehensive and coordinated revisions to parts of the Monroney label. Furthermore, the agency requested comments on effective approaches for communicating safety ratings to consumers with particular interest in data to substantiate the effectiveness of recommended approaches.

In response to the NPRM, the Advocates agreed the agency should conduct research to understand better possible tradeoffs consumers make among price, safety, fuel economy/greenhouse gas emissions, and domestic content, and whether the amount of space dedicated to each of the four items affects consumers' attention to those items.[24] In addition to the size of the area dedicated to an information item, the research should also consider the location on the label of the items and font sizes used to communicate types of information, the organization said. Smaller font size could be interpreted as indicating information of lesser importance, the Advocates said. The organization restated its position from previous comments that the Automobile Information Disclosure Act, 15 U.S.C. 1231–1233, sets a minimum size for the safety label, but does not prohibit the agency from creating a label larger than the minimum requirements.

Honda questioned whether the agency had asked consumers in the previous survey to compare different sample labels (*i.e.,* one sample label with star ratings for each seating position and another sample with a single-line rating for each rating category).'' It stated that this approach would have yielded information about how effective the star rating by seat position strategy would have been. Honda stated that ''in any survey the questions should be designed to help filter out the effects of the survey environment being removed from the conditions being studied. Specifically, it is to be expected that when you ask a person 'would you like more information or less information' at the same perceived cost most people would opt more information. However, when you ask people to make comparisons between different presentations of information to answer specific questions, you can gather actionable results. In this case, it may have been more valuable to have asked survey participants to compare the current and variations of the proposed ratings areas. If participants were able to compare the current ratings to the proposed ratings, it would have been more possible to conclude that the information should have been presented differently to discourage that type of comparison.''

Agency Response: As indicated in the NPRM, the agency agrees that comprehensive consumer research on the entire Monroney label, including the safety rating label, is desirable. Such research would be a complicated process because of the variety of information involved and the fact that three government agencies—NHTSA, DOJ, and EPA share jurisdiction over all or part of the Monroney label. Now that the fuel economy/greenhouse gas emissions portion of the Monroney label is finalized and NHTSA is revising the safety rating portion of the Monroney label with this final rule to reflect changes in the enhanced NCAP testing and rating program, the agency will conduct comprehensive consumer market research that will consider the location and size of the safety rating label and compare with other areas of the Monroney label (including color, font sizes and potential tradeoffs used to communicate types of information). In addition, we will explore adding the advanced crash avoidance safety information to the safety rating label. Initiation of the planned consumer market research is anticipated to begin five months after the publication of this final rule. The timeline for the qualitative and quantitative research phases is detailed in the following tables.

Action/Milestone	Target completion date
Qualitative Research ICR Process:	
Update ICR documents	June 24, 2011.
Program Office review ICR documents	June 24–July 6, 2011.
Revisions to ICR documents based on Program Office feedback	July 12, 2011.
NHTSA Agency Review of ICR documents	July 13–27, 2011.
NCAP Final Rule	July 29, 2011.
Final revisions to ICR documents	July 29, 2011.
Post 60-Day Notice on Federal Register	August 3, 2011.
60-Day Comment Period	August 3–October 3, 2011.
Informal Review of Package by OMB	(During 60-Day Comment Period).
Revise ICR package based on comments received	October 7, 2011.
NHTSA review revised documents	October 7–11, 2011.
Post 30-Day Notice to Federal Register	October 12, 2011.
OST Review and formal submission to OMB	October 12–26, 2011.
30-Day notice closes	November 14, 2011.
OMB Review of ICR documents	December 15, 2011.
OMB Approves Qualitative package	December 15, 2011.

[24] For example, the current fuel economy label and the proposed fuel economy/greenhouse gas emissions label both measure approximately 7 inches by 4.5 inches. This is approximately double the size of a safety ratings label that is just large enough to meet the minimum size requirement in SAFETEA–LU, *i.e.,* either have a minimum length of 4½ inches and a minimum height of 3½ inches or cover at least 8 percent of the total area of the Monroney label, whichever is larger.

Action/Milestone	Target completion date
Qualitative Research Execution:	
Set-up Focus Groups (finalize locations, dates, recruit)	December 15–30, 2011.
Conduct focus groups	January 9–19, 2012.
Top-Line Interim Report	January 20, 2012.
Final Reports for Qualitative Research Due	January 30, 2012.
Quantitative Research ICR Process:	
Draft and finalize online survey based on Qualitative Final Reports	February 14, 2012.
Program Office and BTS review ICR documents	February 24, 2012.
Revisions to ICR documents based on Program Office and BTS feedback	March 2, 2012.
NHTSA Agency Review of ICR documents	March 2–16, 2012.
Post 60-Day Notice on FR	March 21, 2012.
Informal Review of Package by OMB	(During 60-Day Comment Period).
60-Day Comment Period Closes	May 21, 2012.
Revise ICR documents based on comments received	May 25, 2012.
NHTSA Review of ICR Package	June 3, 2012.
Post 30-Day Notice on FR	June 6, 2012.
OST Review and Formal Submission to OMB	June 6–20, 2012.
30-Day Comment Period closes	July 5, 2012.
OMB Review and Approve Quantitative ICR package	August 6, 2012.
Quantitative Research Execution:	
Program online survey	August 10, 2012.
Conduct online surveys	August 13–31, 2012.
Interim Top-Line Report	September 5, 2012.
Final Report on survey results and recommendations	September 14, 2012.

In response to Honda's question, we note that participants in the agency's previous survey were provided with a sample of the current label, as well as various proposed label samples. Participants overwhelmingly preferred the label concept that provided safety rating information for each seating position, rather than a combined driver and passenger seating position rating.[25]

G. Other Issues

1. Legend for Star Ratings

Noting that it has long objected to the star rating system, the Advocates said that, based on conversations and consumer calls, few people understand what the star ratings represent or how they should be interpreted. The organization suggested that each safety rating label should at least include a legend that provides risk information for consumers. Advocates suggested including in the label the star rating risk charts for each of the rating categories that may be found on *http://www.safercar.gov* and elsewhere.

Agency Response: The agency's experience and consumer research it has conducted indicates that the star rating system is an effective way to communicate vehicle safety information to consumers. NHTSA notes again that it has stated that it is re-examining its interpretation about the size of the NCAP label. However, including the star rating risk charts in the safety rating label would require label space far beyond not only what has been thought to be available, but also what would likely be available under any realistic expansion of the label beyond its current size. Thus, the agency cannot agree to either of these suggestions. However, it does make the star rating risk information available on *http://www.safercar.gov.*

2. Overall Vehicle Score

In the NPRM, the agency proposed adding a new area of the label called the ''Overall Vehicle Score.'' The agency also proposed that the overall vehicle score area be placed immediately below the heading area of the label as the first item of safety information. In this area, the vehicle's overall vehicle star rating would be displayed.

As mentioned in the previous section, Advocates expressed concerns regarding the lack of consumer understanding of the agency's star rating system. Advocates suggested that the average consumer would not understand how a single star rating (the overall vehicle score) can represent all the various types of injuries that are subject to each of the NCAP test modes (*i.e.,* frontal, side and rollover) and ''how these already aggregate ratings can then be further combined in a single overall rating intended to represent the complete safety status of the vehicle.'' Advocates further stated that this generic rating provides ''no specific guidance and information on key vehicle performance safety characteristics.'' The organization said NHTSA must also develop a risk table for the overall vehicle score and include that table on all labels that provide consumers with vehicle star ratings.

Agency Response: The purpose of the overall vehicle score, as well as the entire safety rating label, is to provide consumers with an easy to access and understand indication of a vehicle's relative safety, *i.e.,* how the vehicle compares to other similar vehicles. While a consumer who has visited, and becomes familiar with information on, the Web site *http://www.safercar.gov* may have a fuller understanding of the star ratings that appear on a safety rating label, our whole purpose in using a star rating system is to simplify detailed technical information to the consumer in an easy-to-understand format.

We make more detailed information available on *http://www.safercar.gov* where we describe how the overall vehicle score is the weighted average of a vehicle's frontal crash, side crash, and rollover scores. Risk curves are used in the determination of safety ratings in each of these areas. We further describe how the overall vehicle score reflects how well a vehicle compares to the overall vehicle scores of representative vehicles in the fleet. While the agency believes that the overall vehicle score is a good measure of a vehicle's relative overall safety, we will continue to periodically review our data to see if the enhanced program can be further refined to provide additional useful vehicle safety information to consumers.

3. Correction to Ratings Description

Recent changes in the side NCAP program include new test dummies for the two seating positions in the movable

[25] 75 FR 10744.

deformable barrier (MDB) test, a new oblique pole test with a small female crash test dummy in the driver position, and additional injury criteria for both the MDB and the new oblique pole tests. As a result of these changes, the agency proposed that the statement at the bottom of the Side Crash area of the safety rating label read ''Based on the risk of injury in side impact tests'' to illustrate that ratings are obtained from both the side MDB and new oblique pole tests.

Honda commented on what it called ''an anomaly in the description of the various ratings.'' Referring to the statement, ''based on the risk of injury in side impact tests,'' Honda said, ''While the description of the side impact rating accurately reflects that the ratings are based on two distinct tests, it is still a forecast of the risk of injury in a single side impact crash event.''

Agency Response: The agency agrees with Honda's observation and has changed the language to state ''Based on the risk of injury in a side impact.''

4. Visibility Obstructions

The NPRM stated that the safety rating information must be presented in a legible, visible, and prominent fashion and cover at least 8 percent of the total area of the Monroney label [26] or an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label, whichever is larger.

NADA reiterated its ''long expressed concerns'' about the size and location of the Monroney label because it believes that the label obstructs the driver's field of vision and therefore may raise concerns under state laws that govern the operation of motor vehicles when visibility is obstructed. The association urged NHTSA to encourage manufacturers to minimize the overall size of their Monroney labels for these reasons.

Agency Response: The agency is aware of NADA's visibility concerns. However, the Monroney label is required by Congress. As previously mentioned, it is shared with two other organizations (EPA and DOJ) and the information it contains goes beyond the safety rating label section of the Monroney label. Even if the agency were to attempt to restrict the size of the Monroney label, it could not unilaterally affect such a change because of the involvement of other agencies that regulate the label content. Other than NADA's comments on this rulemaking and others, the agency is not aware of any concern on the part of the states as to the size and location of the Monroney label. Therefore, there will be no effort at this time to reduce, or increase, the size of the Monroney label.

H. Lead Time and Other Timing Considerations

The NPRM proposed that model year 2011 and later vehicles manufactured on or after September 1, 2010, would be required to have the new safety rating labels. As is the case in the current labeling program, manufacturers would be required to place the new Government 5-Star safety ratings on the Monroney label of new vehicles 30 days after receiving notification of NCAP test results from NHTSA. The NPRM proposed to permit early compliance for model year 2011 vehicles manufactured before September 1, 2010, provided the ratings placed on the safety rating label were derived from vehicle testing conducted using the updated NCAP testing criteria adopted on July 11, 2008.[27]

The Alliance called for a minimum of six months lead time before requiring the new label, citing the ''significant programming and validation'' required. It indicated that such lead time is consistent with that provided for other new or revised labels.

Nissan also requested six months of lead time to allow for ''significant modifications to the current process Nissan uses to print Monroney labels.'' Nissan said that the addition of the overall vehicle score and the ability to identify a safety concern in the overall vehicle score area of the label requires software changes and other changes to business tools involved.

Nissan also indicated there will be a temporary need to be able to print two differently formatted Monroney labels, those used under the previous safety rating program and those used under the revised program. Nissan stated it does not currently have the ability to do this. The company asked that the agency allow companies to voluntarily use the proposed new text in the label header, footer, and other areas in labels that are printed for the old ratings program in the time leading up to when the revised safety rating label will be required. Nissan stated that ''Although this would not alleviate all of the challenges related to printing two different labels at the same time, it would help streamline the amount of work necessary to move to the new label requirements and help limit the amount of investment directed at changes that do not provide long-term benefits.'' The company further said that past EPA and NHTSA changes to the Monroney label have provided enough lead time to allow manufacturers to implement the changes.

Volvo also expressed concern that identical model year vehicles could end up having different Monroney labels on them. The company pointed out that in January 2010, Volvo released two 2011 model year vehicles for sale. Had the new safety rating label gone into effect as of September 1, 2010 as originally proposed, those vehicles would have had different safety rating labels, depending on when they were manufactured, even though they are the same model year, make and model. It suggested that these situations would cause significant consumer confusion at the point of sale. ''Although Volvo has some flexibility to quickly adapt to the proposed changes, it is both economically and logistically prohibitive to retrofit a new Monroney label and affix it to these vehicles,'' Volvo said.

The AIAM stated that the amount of time given to manufacturers to comply with the new labeling requirements should be six months from the date of issuance of the final rule since manufacturers will not know the details of the new requirements for certain until then. It suggested that manufacturers will need to make several programming and process changes to revise labels so that they conform to the new requirements.

Agency Response: The agency has carefully considered the comments to the NPRM and has adjusted the implementation date to January 31, 2012, for the new label. We believe this will address lead time concerns expressed by the Alliance and Nissan. With respect to Volvo's concern about possibly having two different safety rating labels (*i.e.,* the current and the revised), on identical model year vehicles, the agency has provided the option for manufacturers to start using the revised safety rating label format on model year 2012 vehicles manufactured before January 31, 2012. If this option is used, the manufacturer will have to place the words ''not rated'' in the section of the label for overall vehicle score as well as in any other sections of the label for which NCAP ratings under the enhanced ratings program are not available. If a model year 2012 vehicle is slated to be tested and rated under the enhanced NCAP such that all NCAP ratings for which space is provided on the revised safety ratings label will eventually be available, the manufacturer is allowed to use the words ''to be rated'' on the safety rating label where appropriate.

[26] The total area of the Monroney label includes the area of the safety rating label.

[27] 73 FR 40016.

VI. Rulemaking Analyses and Notices

A. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking under Executive Orders 12866 and 13563 and the Department of Transportation's regulatory policies and procedures. The agency has considered carefully under Executive Order 13563 seven principles of summary disclosure as a regulatory tool when drafting this rulemaking document. This action has been determined to be ''non-significant'' under the Department of Transportation's regulatory policies and procedures. The agency has concluded that the impacts of the amendments in this final rule will be so minimal that preparation of a full regulatory evaluation is not be required.

This final rule requires vehicle manufacturers to add to the existing safety rating label the new overall vehicle score rating the agency has added to the NCAP program, and to make minor modifications to the safety rating label. The agency has considered and concluded that the one-time redesign cost and the cost of redesign to replace ''Not Rated'' or ''To Be Rated'' with stars each time a vehicle is rated all to be minor. The cost of the existing label is estimated to be less than $0.15 per vehicle, and, under today's final rule, the label will remain the same size. Given these considerations, any effects on costs will be trivial.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a rulemaking notice for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. There are four small motor vehicle manufacturers in the United States building vehicles that will be affected by this rule. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that the agency does not believe that this proposal adds a significant economic cost to a motor vehicle. The cost of the existing label is estimated to be less than $0.15 per vehicle. The requirements in today's document will result in minor costs as it will merely require redesign of that label.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. For the following reasons, NHTSA concludes that this rulemaking will not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained. As described previously, this rule will require vehicle manufacturers to include on the existing safety rating labels, the overall vehicle score rating information by NCAP. This final rule details how NHTSA describes the appearance of the label, and specifies to the vehicle manufacturers, in both individual letters to the manufacturers and on the NHTSA's 5-Star safety ratings Web site (*http://www.safercar.gov*), the information specific to a particular motor vehicle make and model that the vehicle manufacturer must place on the Monroney label.

Because NHTSA will specify the format of the safety rating label, and the information each vehicle manufacturer must include on the label, this ''collection of information'' falls within the exception described in 5 CFR Section 1320.3(c)(2) which states in part: ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition.''

The Government 5-Star safety ratings are created by NHTSA. This final rule requires vehicle manufacturers to take the Government 5-Star safety ratings (which NHTSA will provide to each manufacturer) and report them on the Monroney labels, thus disclosing them to potential customers (*i.e.,* the public). For this reason, this final rule will impose a ''collection of information'' requirement for which 5 CFR part 1320 approval need not be obtained.

D. National Environment Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and has determined that the rule will not have any significant impact on the quality of the human environment.

E. Executive Order 13132 (Federalism)

The agency has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This final rule will have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

F. Civil Justice Reform

This final rule will not have any retroactive effect. Parties are not required to exhaust administrative remedies before filing suit in court.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or would otherwise be impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The agency searched for, but did not find any, voluntary consensus standards relevant to this final rule.

H. Unfunded Mandates Reform Act

This final rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act (UMRA) of 1995. This rule will not result in costs of $100 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector. Thus, this rule is not

subject to the requirements of sections 202 and 205 of the UMRA.

I. Privacy Act Statement

Anyone is able to search the electronic form of all comments or petitions received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov.*

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 575 is amended to read as follows:

PART 575—CONSUMER INFORMATION

■ 1. The authority citation for part 575 continues to read as follows:

Authority: 49 U.S.C. 32302, 30111, 30115, 30117, 30166 and 30168, Pub. L. 104–414, 114 Stat. 1800, Pub. L. 109–59, Stat. 1144, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.50.

■ 2. Section 575.301 is amended by revising the section heading and paragraph (b) to read as follows:

§ 575.301 Vehicle labeling of safety rating information (applicable unless a vehicle is subject to § 575.302).

* * * * *

(b) *Application.* This section applies to automobiles with a GVWR of 10,000 pounds or less, manufactured on or after September 1, 2007, that are required by the Automobile Information Disclosure Act, 15 U.S.C. 1231–1233, to have price sticker labels (Monroney labels), *e.g.* passenger vehicles, station wagons, passenger vans, and sport utility vehicles, except for vehicles that are subject to § 575.302. Model Year 2012 or later vehicles manufactured prior to January 31, 2012 may be labeled according to the provisions of § 575.302 instead of this section provided the ratings placed on the safety rating label are derived from vehicle testing conducted by the National Highway Traffic Safety Administration under the enhanced NCAP testing and rating program.

* * * * *

■ 3. Section 575.302 is added to read as follows:

§ 575.302 Vehicle labeling of safety rating information (compliance required for model year 2012 and later vehicles manufactured on or after January 31, 2012).

(a) *Purpose and scope.* The purpose of this section is to aid potential purchasers in the selection of new passenger motor vehicles by providing them with safety rating information developed by NHTSA in its New Car Assessment Program (NCAP) testing. Manufacturers of passenger motor vehicles described in paragraph (b) of this section are required to include this information on the Monroney label. Although NHTSA also makes the information available through means such as postings at *http://www.safercar.gov* and *http://www.nhtsa.dot.gov,* the additional Monroney label information is intended to provide consumers with relevant information at the point of sale.

(b) *Application.* This section applies to automobiles with a GVWR of 10,000 pounds or less, manufactured on or after January 31, 2012 that are have vehicle identification numbers that identify the vehicles to be model year 2012 or later and that are required by the Automobile Information Disclosure Act, 15 U.S.C. 1231–1233, to have price sticker labels (Monroney labels), *e.g.* passenger vehicles, station wagons, passenger vans, pickup trucks and sport utility vehicles. Model Year 2012 or later vehicles manufactured prior to January 31, 2012 may, at the manufacturer's option, be labeled according to the provisions of this § 575.302 provided the ratings placed on the safety rating label are derived from vehicle testing conducted by the National Highway Traffic Safety Administration under the enhanced NCAP testing and rating program.

(c) *Definitions.*

(1) *Monroney label* means the label placed on new automobiles with the manufacturer's suggested retail price and other consumer information, as specified at 15 U.S.C. 1231–1233.

(2) *Safety rating label* means the label with NCAP safety rating information, as specified at 15 U.S.C. 1232(g). The safety rating label is part of the Monroney label.

(d) *Required label.*

(1) Except as specified in paragraph (f) of this section, each vehicle must have a safety rating label that is part of its Monroney label, meets the requirements specified in paragraph (e) of this section, and conforms in content, format and sequence to the sample label depicted in Figure 1 of this section. If NHTSA has not provided a safety rating for any category of vehicle performance for a vehicle, the manufacturer may use the smaller label specified in paragraph (f) of this section.

(2) The label must depict the star ratings for that vehicle as reported to the vehicle manufacturer by NHTSA.

(3) Whenever NHTSA informs a manufacturer in writing of a new safety rating for a specified vehicle or the continued applicability of an existing safety rating for a new model year, including any safety concerns, the manufacturer shall include the new or continued safety rating on vehicles manufactured on or after the date 30 calendar days after receipt by the manufacturer of the information.

(4) If, for a vehicle that has an existing safety rating for a category, NHTSA informs the manufacturer in writing that it has approved an optional NCAP test that will cover that category, the manufacturer may depict vehicles manufactured on or after the date of receipt of the information as ''Not Rated'' or ''To Be Rated'' for that category.

(5) The text ''Overall Vehicle Score,'' ''Frontal Crash,'' ''Side Crash,'' ''Rollover,'' ''Driver,'' ''Passenger,'' ''Front Seat,'' ''Rear Seat'' and where applicable, ''Not Rated'' or ''To Be Rated,'' the star graphic indicating each rating, as well as any text in the header and footer areas of the label, must have a minimum font size of 12 point. All remaining text and symbols on the label (including the star graphic specified in paragraph (e)(9)(i) of this section), must have a minimum font size of 8 point.

(e) *Required information and format.*

(1) *Safety rating label border.* The safety rating label must be surrounded by a solid dark line that is a minimum of 3 points in width.

(2) *Safety rating label size and legibility.* The safety rating label must be presented in a legible, visible, and prominent fashion that covers at least 8 percent of the total area of the Monroney label (*i.e.,* including the safety rating label) or an area with a minimum of 4½ inches in length and 3½ inches in height on the Monroney label, whichever is larger.

(3) *Heading area.* The words ''Government 5-Star Safety Ratings'' must be in boldface, capital letters that are light in color and centered. The background must be dark.

(4) *Overall vehicle score area.*

(i) The overall vehicle score area must be placed immediately below the heading area and must have dark text and a light background. The overall vehicle score rating must be displayed with the maximum star rating achieved.

(ii) The words ''Overall Vehicle Score'' must be in boldface aligned to the left side of the label. The achieved

star rating must be on the same line and be aligned to the right side of the label and left justified.

(iii) The words ''Based on the combined ratings of frontal, side and rollover.'' followed (on the next line) by the statement ''Should *only* be compared to other vehicles of similar size and weight.'' must be placed at the bottom of the overall vehicle score area and left justified.

(iv) If NHTSA has not released the star rating for the ''Frontal Crash,'' ''Side Crash,'' or ''Rollover'' area, the text ''Not Rated'' must be used in boldface. However, as an alternative, the words ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for the NCAP frontal, side, and/or rollover testing such that there will be ratings in all three areas.

(5) *Frontal crash area.*

(i) The frontal crash area must be placed immediately below the overall vehicle score area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. Both the driver and the right front seat passenger frontal crash test ratings must be displayed with the maximum star ratings achieved.

(ii) The words ''Frontal Crash'' must be in boldface, cover two lines, and be aligned to the left side of the label.

(iii) The word ''Driver'' must be on the same line as the word ''Frontal'' in ''Frontal Crash,'' and be horizontally centered, left justified and vertically aligned to the top of the frontal crash area. The achieved star rating for ''Driver'' must be on the same line and be aligned to the right side of the label and left justified.

(iv) If NHTSA has not released the star rating for the ''Driver'' position, the text ''Not Rated'' must be used in boldface. However, as an alternative, the words ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text ''Driver'' and be aligned to the right side of the label and left justified.

(v) The word ''Passenger'' must be on the same line as the word ''Crash'' in ''Frontal Crash,'' below the word ''Driver,'' and be horizontally centered, left justified and vertically aligned to the top of the frontal crash area. The achieved star rating for ''Passenger'' must be on the same line and be aligned to the right side of the label and left justified.

(vi) If NHTSA has not released the star rating for ''Passenger,'' the words ''Not Rated'' must be used in boldface. However, as an alternative, the words ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text ''Passenger'' and be aligned to the right side of the label and left justified.

(vii) The words ''Based on the risk of injury in a frontal impact.'' followed (on the next line) by the statement ''Should ONLY be compared to other vehicles of similar size and weight.'' must be placed at the bottom of the frontal crash area and left justified.

(6) *Side crash area.*

(i) The side crash area must be immediately below the frontal crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. Both the driver and the rear seat passenger side crash test rating must be displayed with the maximum star rating achieved.

(ii) The words ''Side Crash'' must cover two lines, and be aligned to the left side of the label in boldface.

(iii) The words ''Front seat'' must be on the same line as the word ''Side'' in ''Side Crash'' and be horizontally centered, left justified and vertically aligned to the top of the side crash area. The achieved star rating for ''Front seat'' must be on the same line as the words ''Front seat'' and be aligned to the right side of the label and left justified.

(iv) If NHTSA has not released the star rating for ''Front Seat,'' the words ''Not Rated'' must be used in boldface. However, as an alternative, the words ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text ''Front seat'' and be aligned to the right side of the label and left justified.

(v) The words ''Rear seat'' must be on the same line as the word ''Crash'' in ''Side Crash,'' below the word ''Front seat,'' and be horizontally centered, left justified and vertically aligned to the top of the side crash area. The achieved star rating for ''Rear seat'' must be on the same line as the text ''Rear seat'' and be aligned to the right side of the label and left justified.

(vi) If NHTSA has not released the star rating for ''Rear Seat,'' the text ''Not Rated'' must be used in boldface. However, as an alternative, the text ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text ''Rear seat'' and be aligned to the right side of the label and left justified.

(vii) The words ''Based on the risk of injury in a side impact.'' must be placed at the bottom of the side crash area and left justified.

(7) *Rollover area.*

(i) The rollover area must be immediately below the side crash area, separated by a dark line that is a minimum of three points in width. The text must be dark against a light background. The rollover test rating must be displayed with the maximum star rating achieved.

(ii) The word ''Rollover'' must be aligned to the left side of the label in boldface. The achieved star rating must be on the same line and be aligned to the right side of the label and left justified.

(iii) If NHTSA has not tested the vehicle, the words ''Not Rated'' must be used in boldface. However, as an alternative, the words ''To Be Rated'' (in boldface) may be used if the manufacturer has received written notification from NHTSA that the vehicle has been chosen for NCAP testing. Both texts must be on the same line as the text ''Rollover'' and be aligned to the right side of the label and left justified.

(iv) The words ''Based on the risk of rollover in a single-vehicle crash.'' must be placed at the bottom of the rollover area and left justified.

(8) *Graphics.* The star graphic is depicted in Figure 3 and the safety concern graphic is depicted in Figure 4.

(9) *Footer area.* The footer area must be placed at the bottom of the label; the text must be in boldface letters that are light in color and centered. The background must be dark. The text must state the following, in the specified order, on separate lines:

(i) ''Star ratings range from 1 to 5 stars (★ ★ ★ ★ ★) with 5 being the highest.''

(ii) ''Source: National Highway Traffic Safety Administration (NHTSA).''

(iii) ''www.safercar.gov or 1–888–327–4236.''

(10) *Safety concern.* For vehicle tests for which NHTSA reports a safety concern as part of the safety rating, and for overall vehicle scores that are derived from vehicle tests for at least one of which NHTSA reports a safety concern as part of the safety rating, the label must:

(i) In both the rating area in which the safety concern was identified and in the overall vehicle score area, depict, as a superscript to the star rating, the safety

concern symbol, as depicted in Figure 4 of this section, at ⅔ the font size of the base star, and

(ii) Include at the bottom of the overall vehicle score area only as the last line of that area, in no smaller than 8 point type, the related symbol, as depicted in Figure 4 of this section, as a superscript of the rest of the line, and the text ''Safety Concern: Visit www.safercar.gov or call 1–888–327–4236 for more details.''

(11) No additional information may be provided in the safety rating label area. The specified information provided in a language other than English is not considered to be additional information.

(f) *Smaller safety rating label for vehicles with no ratings.*

(1) If NHTSA has not released a safety rating for any category for a vehicle, the manufacturer may use a smaller safety rating label that meets paragraphs (f)(2) through (f)(5) of this section. A sample label is depicted in Figure 2.

(2) The label must be at least 4½ inches in width and 1½ inches in height, and must be surrounded by a solid dark line that is a minimum of 3 points in width.

(3) *Heading area.* The text must read ''Government 5-Star Safety Ratings'' and be at least in 14-point boldface, capital letters that are light in color, and be centered. The background must be dark.

(4) *General information.* The general information area must be below the header area. The text must be dark and the background must be light. The text must state the following, in at least 12-point font and be left justified: ''This vehicle has not been rated by the government for overall vehicle score, frontal crash, side crash, or rollover risk.''

(5) *Footer area.* The footer area must be placed at the bottom of the label; the text must be at least in 12-point boldface letters that are light in color, and centered. The background must be dark. The text must state the following, in the specified order, on separate lines:

(i) ''Source: National Highway Traffic Safety Administration (NHTSA)'' and

(ii) ''www.safercar.gov or 1–888–327–4236''.

(6) No additional information may be provided in the smaller safety rating label area. The specified information provided in a language other than English is not considered to be additional information.

(g) *Labels for alterers.*

(1) If, pursuant to 49 CFR 567.7, a person is required to affix a certification label to a vehicle, and the vehicle has a safety rating label with one or more safety ratings, the alterer must also place another label on that vehicle as specified in this paragraph.

(2) The additional label (which does not replace the one required by 49 CFR 567.7) must read: ''This vehicle has been altered. The stated star ratings on the safety rating label may no longer be applicable.''

(3) The label must be placed adjacent to the Monroney label or as close to it as physically possible.

BILLING CODE 4910–59–P

Figure 1 to § 575.302

Sample Label for a Vehicle with At Least One Government 5-Star Safety Rating

Figure 2 to § 575.302

Sample Label for a Vehicle with No Government 5-Star Safety Ratings

Figure 3 to § 575.302

Sample Star Rating Graphic for § 575.302

Figure 4 to § 575.302

Sample Safety Concern Graphic for § 575.302

Issued on: July 22, 2011.

David L. Strickland,

Administrator for the National Highway Traffic Safety Administration.

[FR Doc. 2011–19049 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–59–C

Proposed Rules

Federal Register
Vol. 76, No. 146
Friday, July 29, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Chapter II

[Docket Number EERE–2010–BT–STD–0048]

RIN 1904–AC04

Energy Efficiency Standards for Distribution Transformers; Notice of Intent To Negotiate Proposed Rule

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is giving notice that it intends to establish a negotiated rulemaking subcommittee under ERAC in accordance with the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA) to negotiate proposed Federal standards for the energy efficiency of liquid immersed and medium voltage dry-type distribution transformers. The purpose of the subcommittee will be to discuss and, if possible, reach consensus on a proposed rule for the energy efficiency of distribution transformers, as authorized by the Energy Policy and Conservation Act (EPCA) of 1975, as amended. The subcommittee will consist of representatives of parties having a defined stake in the outcome of the proposed standards, and will consult as appropriate with a range of experts on technical issues.

DATES: Written comments and requests to be appointed as members of the subcommittee are welcome and should be submitted by August 15, 2011.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2010–BT–STD–0048, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: DistributionTransformers-2010-STD-0048@ee.doe.gov.* Include EERE–2010–BT–STD–0048 and/or RIN 1904–AC04 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, EERE–2010–BT–STD–0048 and/or RIN 1904–AC04, 1000 Independence Avenue, SW., Washington, DC 20585–0121. *Phone:* (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. *Phone:* (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking.

Docket: For access to the docket to read background documents, a copy of the transcript of the public meeting, or comments received, go to the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, U.S. Department of Energy, Office of Building Technologies (EE–2J), 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. E-mail: *John.Cymbalsky@ee.doe.gov.*

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel (GC–71), 1000 Independence Ave., SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. E-mail: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Preamble

I. Statutory Authority
II. Background
III. Proposed Negotiating Procedures
IV. Comments Requested

I. Statutory Authority

This notice of intent announcing DOE's intent to negotiate a proposed regulation setting energy efficiency standards for distribution transformers was developed under the authority of sections 563 and 564 of the NRA (5 U.S.C. §§ 561–570, Pub. L. 104–320). The regulation setting energy efficiency standards for distribution transformers that DOE is proposing to develop under a negotiated rulemaking will be developed under the authority of EPCA, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a).

II. Background

As required by the NRA, DOE is giving notice that it is establishing a subcommittee under ERAC to develop proposed energy efficiency standards for distribution transformers.

EPCA, as amended, directs DOE to adopt energy conservation standards for those distribution transformers for which standards would be technologically feasible and economically justified, and would result in significant energy savings. (42 U.S.C. 6317(a)(2)). On October 12, 2007, DOE issued a final rule adopting energy efficiency standards for electricity distribution transformers (''final rule''). 72 FR 58190–58241 (October 12, 2007). The standards in that final rule applied to liquid-immersed and medium-voltage dry-type distribution transformers. In December 2007, a group of States and environmental groups sued DOE challenging the final rule. In July 2009, the United States Court of Appeals for the 9th Circuit approved a settlement agreement amongst the parties to that lawsuit which allowed the standards in the final rule to become applicable, beginning January 1, 2010, but required DOE to conduct a review of the standards for liquid-immersed and medium-voltage dry-type distribution transformers and publish in the **Federal Register**, no later than October 1, 2011, either a determination pursuant to EPCA, that standards for these products do not need to be amended or a notice of proposed rulemaking including any new proposed standards for these products. DOE further agreed that if, after conducting its review, DOE determines that amendment of the standards is warranted, DOE will publish in the **Federal Register**, no later than October 1, 2012, a final rule including any amendments to the standards for liquid-immersed and medium-voltage dry-type distribution transformers, with any such amended standards shall require compliance no later than January 1, 2016.

A. Negotiated Rulemaking

DOE has decided to use the negotiated rulemaking process to develop proposed energy efficiency standards for distribution transformers. Under EPCA, Congress mandated that DOE develop regulations establishing energy efficiency standards for covered residential and commercial appliances that are designed to achieve the maximum improvement in energy efficiency that are technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) The primary reason for using the negotiated rulemaking process for developing a proposed Federal standard is that stakeholders strongly support a consensual rulemaking effort. DOE believes such a regulatory negotiation process will be less adversarial and better suited to resolving complex technical issues. An important virtue of negotiated rulemaking is that it allows expert dialog that is much better than traditional techniques at getting the facts and issues right and will result in a proposed rule that will effectively reflect Congressional intent.

A regulatory negotiation will enable DOE to engage in direct and sustained dialog with informed, interested, and affected parties when drafting the regulation, rather than obtaining input during a public comment period after developing and publishing a proposed rule. Gaining this early understanding of all parties' perspectives allows DOE to address key issues at an earlier stage of the process, thereby allowing more time for an iterative process to resolve issues. A rule drafted by negotiation with informed and affected parties is expected to be potentially more pragmatic and more easily implemented than a rule arising from the traditional process. Such rulemaking improvement is likely to provide the public with the full benefits of the rule while minimizing the potential negative impact of a proposed regulation conceived or drafted without the full prior input of outside knowledgeable parties. Because a negotiating subcommittee includes representatives from the major stakeholder groups affected by or interested in the rule, the number of public comments on the proposed rule may be decreased. DOE anticipates that there will be a need for fewer substantive changes to a proposed rule developed under a regulatory negotiation process prior to the publication of a final rule.

B. The Concept of Negotiated Rulemaking

Usually, DOE develops a proposed rulemaking using Department staff and consultant resources. Typically, a preliminary analysis is vetted for stakeholder comments after a Framework Document is published and comments taken thereon. After the notice of proposed rulemaking is published for comment, affected parties may submit arguments and data defining and supporting their positions with regard to the issues raised in the proposed rule. Congress noted in the NRA, however, that regulatory development may ''discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions * * *.'' (5 U.S.C. 561(2)(2)) Congress also stated that ''adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.'' (5 U.S.C. 561(2)(3))

Using negotiated rulemaking to develop a proposed rule differs fundamentally from the Department-centered process. In negotiated rulemaking, a proposed rule is developed by an advisory committee or subcommittee, chartered under FACA (5 U.S.C. App. 2), composed of members chosen to represent the various interests that will be significantly affected by the rule. The goal of the advisory committee or subcommittee is to reach consensus on the treatment of the major issues involved with the rule. The process starts with the Department's careful identification of all interests potentially affected by the rulemaking under consideration. To help with this identification, the Department publishes a notice of intent such as this one in the **Federal Register**, identifying a preliminary list of interested parties and requesting public comment on that list. Following receipt of comments, the Department establishes an advisory committee or subcommittee representing the full range of stakeholders to negotiate a consensus on the terms of a proposed rule. Representation on the advisory committee or subcommittee may be direct; that is, each member may represent a specific interest, or may be indirect, such as through trade associations and/or similarly-situated parties with common interests. The Department is a member of the advisory committee or subcommittee and represents the Federal government's interests. The advisory committee or subcommittee chair is assisted by a neutral mediator who facilitates the negotiation process. The role of the mediator, also called a facilitator, is to apply proven consensus-building techniques to the advisory committee or subcommittee process.

After an advisory committee or subcommittee reaches consensus on the provisions of a proposed rule, the Department, consistent with its legal obligations, uses such consensus as the basis of its proposed rule, which then is published in the **Federal Register**. This publication provides the required public notice and provides for a public comment period. Other participants and other interested parties retain their rights to comment, participate in an informal hearing (if requested), and request judicial review. DOE anticipates, however, that the pre-proposal consensus agreed upon by the advisory committee or subcommittee will narrow any issues in the subsequent rulemaking.

C. Proposed Rulemaking for Energy Efficiency Standards for Distribution Transformers

The NRA enables DOE to establish an advisory committee or subcommittee if it is determined that the use of the negotiated rulemaking process is in the public interest. DOE intends to develop Federal regulations that build on the depth of experience accrued in both the public and private sectors in implementing standards and programs.

DOE has determined that the regulatory negotiation process will provide for obtaining a diverse array of in-depth input, as well as an opportunity for increased collaborative discussion from both private-sector stakeholders and government officials who are familiar with energy efficiency of distribution transformers. In July of 2011, DOE initiated the convening stage of the negotiated rulemaking process to identify and interview appropriate public- and private-sector stakeholders. DOE retained an expert convener to contact parties potentially affected by energy efficiency standards for distribution transformers to determine whether stakeholders are interested in participating in a negotiated rulemaking process and whether they believe stakeholder issues can be addressed and resolved through a regulatory negotiation. Following an evaluation of initial stakeholder interest and input, the independent convener determined that there is sufficient enthusiasm

among stakeholders to support a negotiated rulemaking process and that there is a reasonably good chance of successfully reaching a consensus agreement among stakeholders on the rule.

D. Department Commitment

In initiating this regulatory negotiation process to develop energy efficiency standards for distribution transformers, DOE is making a commitment to provide adequate resources to facilitate timely and successful completion of the process. This commitment includes making the process a priority activity for all representatives, components, officials, and personnel of the Department who need to be involved in the rulemaking, from the time of initiation until such time as a final rule is issued or the process is expressly terminated. DOE will provide administrative support for the process and will take steps to ensure that the advisory committee or subcommittee has the dedicated resources it requires to complete its work in a timely fashion. Specifically, DOE will make available the following support services: properly equipped space adequate for public meetings and caucuses; logistical support; word processing and distribution of background information; the service of a facilitator; and such additional research and other technical assistance as may be necessary.

To the maximum extent possible consistent with the legal obligations of the Department, DOE will use the consensus of the advisory committee or subcommittee as the basis for the rule the Department proposes for public notice and comment.

E. Negotiating Consensus

As discussed above, the negotiated rulemaking process differs fundamentally from the usual process for developing a proposed rule. Negotiation enables interested and affected parties to discuss various approaches to issues rather than asking them only to respond to a proposal developed by the Department. The negotiation process involves a mutual education of the various parties on the practical concerns about the impact of standards. Each advisory committee or subcommittee member participates in resolving the interests and concerns of other members, rather than leaving it up to DOE to evaluate and incorporate different points of view.

A key principle of negotiated rulemaking is that agreement is by consensus of all the interests. Thus, no one interest or group of interests is able to control the process. The NRA defines consensus as the unanimous concurrence among interests represented on a negotiated rulemaking committee or subcommittee, unless the committee or subcommittee itself unanimously agrees to use a different definition. (5 U.S.C. § 562) In addition, experience has demonstrated that using a trained mediator to facilitate this process will assist all parties, including DOE, in identifying their real interests in the rule, and thus will enable parties to focus on and resolve the important issues.

III. Proposed Negotiating Procedures

A. Key Issues for Negotiation

The convener identified the following issues and concerns that will underlie the work of the Negotiated Rulemaking Committee on Energy Efficiency Standards for Distribution Transformers:

- DOE's key issues include assuring full compliance with statutory mandates. Congress has mandated that DOE establish minimum energy efficiency standards that are technologically feasible and economically justified.
- The committee must find ways to balance the goals and priorities of State regulatory programs and DOE's program for energy efficiency standards.
- Manufacturers desire that standards not diminish or constrain innovation for these products.
- Environmental advocates seek to ensure that standards achieve the maximum energy savings that are technologically feasible and economically justifiable.

To examine the underlying issues outlined above, and others not yet articulated, all parties in the negotiation will need DOE to provide data and an analytic framework complete and accurate enough to support their deliberations. DOE's analyses must be adequate to inform a prospective negotiation—for example, a preliminary Technical Support Document or equivalent must be available and timely.

B. Formation of Subcommittee

A subcommittee will be formed and operated in full compliance with the requirements of FACA and in a manner consistent with the requirements of the NRA. DOE has determined that the subcommittee not exceed 25 members. The Department believes that more than 25 members would make it difficult to conduct effective negotiations. DOE is aware that there are many more potential participants than there are membership slots on the subcommittee. The Department does not believe, nor does the NRA contemplate, that each potentially affected group must participate directly in the negotiations; nevertheless, each affected interest can be adequately represented. To have a successful negotiation, it is important for interested parties to identify and form coalitions that adequately represent significantly affected interests. To provide adequate representation, those coalitions must agree to support, both financially and technically, a member of the subcommittee whom they choose to represent their interests.

DOE recognizes that when it establishes energy efficiency standards for residential products and commercial equipment, various segments of society may be affected in different ways, in some cases producing unique ''interests'' in a proposed rule based on income, gender, or other factors. The Department will pay attention to providing that any unique interests that have been identified, and that may be significantly affected by the proposed rule, are represented.

FACA also requires that members of the public have the opportunity to attend meetings of the full committee and speak or otherwise address the committee during the public comment period. In addition, any member of the public is permitted to file a written statement with the advisory committee. DOE plans to follow these same procedures in conducting meetings of the subcommittee.

C. Interests Involved/Subcommittee Membership

DOE anticipates that the subcommittee will comprise no more than 25 members who represent affected and interested stakeholder groups, at least one of whom must be a member of the ERAC. As required by FACA, the Department will conduct the negotiated rulemaking with particular attention to ensuring full and balanced representation of those interests that may be significantly affected by the proposed rule governing standards for the energy efficiency of distribution transformers. Section 562 of the NRA defines the term interest as ''with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner.'' Listed below are parties the Department to date has identified as being ''significantly affected'' by a proposed rule regarding the energy efficiency of distribution transformers.

- The Department of Energy
- Distribution transformers manufacturers and trade associations representing manufacturers

- Component manufacturers and related suppliers
- Utilities
- Energy efficiency/environmental advocacy groups
- Consumers

One purpose of this notice of intent is to determine whether Federal standards regarding the energy efficiency of distribution transformers will significantly affect interests that are not listed above. DOE invites comment and suggestions on its initial list of significantly affected interests.

DOE also developed an initial list of stakeholders who could serve on the subcommittee to represent the above-listed interests. The following list includes organizations DOE tentatively has identified as being either potential members of the subcommittee, or potential members of a coalition that would in turn nominate a candidate to represent one of the significantly affected interests listed above. DOE invites comment and suggestions on whether the following list of stakeholders identifies an accurate and comprehensive pool of stakeholders, or subcommittee members.

- Department of Energy
  - John Cymbalsky
- EarthJustice
  - Tim Ballo
- Cooper Power Systems
  - Jerry Corkran
- Prolec GE
  - Greg Coulter
- National Electrical Manufacturers Association
  - Jim Creevy
  - Clark Silcox
- Appliance Standards Awareness Program
  - Andrew DeLaski
- Kentucky Association of Electric Cooperatives/United Utility Supply
  - Charlie Drexler
- Northwest Power and Conservation Council
  - Tom Eckman
- Pacific Gas and Electric
  - Gary Fernstrom
- Federal Pacific
  - Robert Greeson
- Howard Industries, Inc.
  - Gerald Hodge
- American Public Power
  - Michael Hyland
- MGM Transformer Company
  - Mike Iman
- Niagara Transformer Corporation
  - Sheldon Kennedy
- Metglass Inc.
  - Dave Millure
- American Council for an Energy Efficiency Economy
  - Steve Nadel
- ABB Inc.
  - Wes Patterson
- Edison Electric Institute
  - Steve Rosenstock
- Natural Resources Defense Council
  - Robin Roy
- National Rural Electric Cooperative Association
  - Robert Saint
- AK Steel Corporation
  - Jerry Schoen
- Northwest Energy Efficiency Alliance
  - Charles Stevens
- ONYX Power Inc.
  - Vijay Tendulkar
- Moon Lake Electric Association
  - Ken Winder
- California Energy Commission (as resource party)

The list provided above includes stakeholders whom DOE tentatively has identified as being either a potential member of the subcommittee or a potential member of a coalition that would in turn nominate a candidate to represent one of the significantly affected interests, also listed above. The list is not presented as a complete or exclusive list from which subcommittee members will be selected. Nor does inclusion on the list of potential parties mean that a listed party has agreed to participate as a member of the subcommittee or as a member of a coalition. The list merely indicates parties that DOE tentatively has identified as representing significantly affected interests in the proposed rule establishing energy efficiency standards for distribution transformers.

DOE requests comments and suggestions regarding its tentative list of potential members of the subcommittee on energy efficiency standards for distribution transformers. Members may be individuals or organizations. If the effort is to be fruitful, participants on the subcommittee should be able to fully and adequately represent the viewpoints of their respective interests. This document gives notice of DOE's process to other potential participants and affords them the opportunity to request representation in the negotiations. Those who wish to be appointed as members of the subcommittee, including those that have been tentatively identified by DOE in this notice of intent, should submit a request to DOE, in accordance with the public participation procedures outlined in the **DATES** and **ADDRESSES** sections of this notice of intent. Membership of the subcommittee is likely to involve:

- Attendance at approximately five (5), one (1) to two (2) day meetings;
- Travel costs to those meetings; and
- Preparation time for those meetings.

Members serving on the subcommittee will not receive compensation for their services.

Interested parties who are not selected for membership on the subcommittee may make valuable contributions to this negotiated rulemaking effort in any of several ways:

- The person may request to be placed on the subcommittee mailing list and submit written comments as appropriate.
- The person may attend subcommittee meetings, which are open to the public; caucus with his or her interest's member on the subcommittee; or even address the subcommittee during the public comment portion of the subcommittee meeting.
- The person could assist the efforts of a workgroup that the subcommittee might establish.

A subcommittee may establish informal workgroups, which usually are asked to facilitate committee deliberations by assisting with various technical matters (*e.g.,* researching or preparing summaries of the technical literature or comments on specific matters such as economic issues). Workgroups also might assist in estimating costs or drafting regulatory text on issues associated with the analysis of the costs and benefits addressed, or formulating drafts of the various provisions and their justifications as previously developed by the subcommittee. Given their support function, workgroups usually consist of participants who have expertise or particular interest in the technical matter(s) being studied. Because it recognizes the importance of this support work for the subcommittee, DOE will provide appropriate technical expertise for such workgroups.

D. Good Faith Negotiation

Every subcommittee member must be willing to negotiate in good faith and have the authority, granted by his or her constituency, to do so. The first step is to ensure that each member has good communications with his or her constituencies. An intra-interest network of communication should be established to bring information from the support organization to the member at the table, and to take information from the table back to the support organization. Second, each organization or coalition therefore should designate as its representative a person having the credibility and authority to ensure that needed information is provided and decisions are made in a timely fashion. Negotiated rulemaking can require the appointed members to give a significant

amount of time, which must be sustained for as long as the duration of the negotiated rulemaking. Although the ERAC advisory committee charter will be in effect for 2 years from the date it is filed with Congress, DOE expects the subcommittee's deliberations to conclude or be terminated earlier than that. Other qualities of members that can be helpful are negotiating experience and skills, and sufficient technical knowledge to participate in substantive negotiations.

Certain concepts are central to negotiating in good faith. One is the willingness to bring all issues to the bargaining table in an attempt to reach a consensus, as opposed to keeping key issues in reserve. The second is a willingness to keep the issues at the table and not take them to other forums. Finally, good faith includes a willingness to move away from some of the positions often taken in a more traditional rulemaking process, and instead explore openly with other parties all ideas that may emerge from the subcommittee's discussions.

E. Facilitator

The facilitator will act as a neutral in the substantive development of the proposed standard. Rather, the facilitator's role generally includes:

- Impartially assisting the members of the subcommittee in conducting discussions and negotiations; and
- Impartially assisting in performing the duties of the Designated Federal Official under FACA.

F. Department Representative

The DOE representative will be a full and active participant in the consensus-building negotiations. The Department's representative will meet regularly with senior Department officials, briefing them on the negotiations and receiving their suggestions and advice so that he or she can effectively represent the Department's views regarding the issues before the subcommittee. DOE's representative also will ensure that the entire spectrum of governmental interests affected by the standards rulemaking, including the Office of Management and Budget, the Attorney General, and other Departmental offices, are kept informed of the negotiations and encouraged to make their concerns known in a timely fashion.

G. Subcommittee and Schedule

After evaluating the comments submitted in response to this notice of intent and the requests for nominations, DOE will either inform the members of the subcommittee that they have been selected or determine that conducting a negotiated rulemaking is inappropriate. Due to the court-ordered deadline, DOE plans for the subcommittee to conduct deliberations in the summer and fall of 2011 and hopes that the subcommittee will come to an agreement on a Notice of Proposed Rulemaking in time to publish that proposal by the October 1, 2011 date contained in the settlement agreement described above.

DOE will advise subcommittee members of administrative matters related to the functions of the subcommittee before beginning. DOE will establish a meeting schedule based on the settlement agreement and produce the necessary documents so as to adhere to that schedule. While the negotiated rulemaking process is underway, DOE is committed to performing much of the same analysis as it would during a normal standards rulemaking process and to providing information and technical support to the subcommittee.

IV. Comments Requested

DOE requests comments on whether it should use negotiated rulemaking for its rulemaking pertaining to the energy efficiency of distribution transformers and the extent to which the issues, parties, and procedures described above are adequate and appropriate. DOE also requests comments on which parties should be included in a negotiated rulemaking to develop draft language pertaining to the energy efficiency of distribution transformers and suggestions of additional interests and/or stakeholders that should be represented on the subcommittee. All who wish to participate as members of the subcommittee should submit a request for nomination to DOE.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's notice intent to negotiate a proposed rulemaking.

Issued in Washington, DC, on July 26, 2011.

Kathleen Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–19263 Filed 7–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0758 Airspace Docket No. 11–AAL–11]

Proposed Amendment of Class E Airspace; Northway, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Class E airspace at Northway AK. The amendment of one standard instrument approach procedure at the Northway Airport has made this action necessary to enhance safety and management of Instrument Flight Rules (IFR) operations.

DATES: Comments must be received on or before September 12, 2011.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2011–0758/Airspace Docket No. 11–AAL–11 at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0758/Airspace Docket No. 11–AAL–11.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14 Code of Federal Regulations (14 CFR) part 71 by revising the Class E2 surface area and the Class E5 transitions areas at the Northway Airport in Northway, AK, to accommodate the revision of the RNAV (GPS) Runway 23 instrument approach procedure at the Northway Airport. This Class E airspace would provide adequate controlled airspace upward from the surface (E2) to 700 feet and 1,200 feet (E5) above the surface, for the safety and management of IFR operations at the Northway Airport.

The Class E2 airspace designated as surface areas and the Class E5 airspace designated as 700/1200 foot transition areas are published in paragraphs 6002 and 6005, respectively, in FAA Order 7400.9U, Airspace Designations and Reporting Points, signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The airspaces listed in this document would be subsequently published in that Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to revise Class E airspace at the Northway Airport, Northway, AK, and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AAL AK E2 Northway, AK [Revised]

Northway Airport, AK
(Lat. 62°57′40″ N., long. 141°55′41″ W.)
Northway VORTAC
(Lat. 62°56′50″ N., long. 141°54′46″ W.)

Within a 4-mile radius of the Northway Airport, AK and within 2 miles each side of the 077° radial from the Northway Airport, AK extending from the 4-mile radius to 12.7 miles east of the Northway Airport, AK and within 3.1 miles each side of the 312° radial from the Northway VORTAC extending from the 4-mile radius to 11.4 miles northwest of the Northway Airport, AK.

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Northway AK [Revised]

Northway Airport, AK
(Lat. 62°57′40″ N., long. 141°55′41″ W.)
Northway VORTAC
(Lat. 62°56′50″ N., long. 141°54′46″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Northway Airport, AK and within 2 miles each side of the 077° radial from the Northway Airport, AK extending from the 8-mile radius to 13.7 miles east of the

Northway Airport, AK, and that airspace extending upward from 1,200 feet above the surface within a 66-mile radius of the Northway Airport, AK, excluding the airspace east of 141°00′00″ west longitude.

Issued in Anchorage, AK, on July 22, 2011.

Marshall G. Severson,

Acting Manager, Alaska Flight Services.

[FR Doc. 2011–19162 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0756 Airspace Docket No. 11–AAL–09]

Proposed Amendment of Class E Airspace; Allakaket, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revise Class E airspace at Allakaket AK. The amendment of one standard instrument approach procedure at the Allakaket Airport has made this action necessary to enhance safety and management of Instrument Flight Rules (IFR) operations.

DATES: Comments must be received on or before September 12, 2011.

ADDRESSES: Send comments on the proposal to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2011–0756/ Airspace Docket No. 11–AAL–09 at the beginning of your comments. You may also submit comments on the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Manager, Safety, Alaska Flight Service Operations, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587.

FOR FURTHER INFORMATION CONTACT: Martha Dunn, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *Martha.ctr.Dunn@faa.gov.* Internet address: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs/alaskan/rulemaking/.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0756/Airspace Docket No. 11–AAL–09.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E5 airspace at the Allakaket Airport in Allakaket, AK, to accommodate the revision of the RNAV (GPS) Runway 23 instrument approach procedure at the Allakaket Airport. This Class E airspace would provide adequate controlled airspace upward from the surface (E2) to 700 feet and 1,200 feet (E5) above the surface, for the safety and management of IFR operations at the Allakaket Airport.

The Class E2 airspace designated as surface areas and the Class E5 airspace designated as 700/1200 foot transition areas are published in paragraphs 6002 and 6005, respectively, in FAA Order 7400.9U, Airspace Designations and Reporting Points, signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The airspaces listed in this document would be subsequently published in that Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs,

describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to revise Class E airspace at the Allakaket Airport, Allakaket, AK, and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Allakaket, AK [Revised]

Allakaket Airport, AK
(Lat. 66°33′07″ N., long. 152°37′20″ W.)

That airspace extending upward from 700 feet above the surface within a 8.6-mile radius of the Allakaket Airport, AK and that airspace extending upward from 1,200 feet above the surface within a 71-mile radius of the Allakaket Airport, AK.

Issued in Anchorage, AK, on July 21, 2011.

Marshall G. Severson,

Acting Manager, Alaska Flight Services.

[FR Doc. 2011–19164 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0727; Airspace Docket No. 11–ASO–32]

Proposed Establishment of Class E Airspace; Nahunta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Nahunta, GA to accommodate new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures serving the Brantley County Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before September 12, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–0727; Airspace Docket No. 11–ASO–32, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0727; Airspace Docket No. 11–ASO–32) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0727; Airspace Docket No. 11–ASO–32. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace at Nahunta, GA providing the controlled airspace required to support the new RNAV GPS standard instrument approach procedures for Brantley County Airport. Controlled airspace extending upward from 700 feet above the surface is required for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E airspace at Brantley County Airport.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO GA E5 Nahunta, GA [New]

Brantley County Airport
(Lat. 31°12′22″ N., long. 81°54′10′22″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Brantley County Airport.

Issued in College Park, Georgia on July 19, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–19158 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0377; Airspace Docket No. 11–AEA–10]

Proposed Establishment of Class E Airspace; Bumpass, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Bumpass, VA, to accommodate new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures serving Lake Anna Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before September 12, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–0377; Airspace Docket No. 11–AEA–10, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0377; Airspace Docket No. 11–AEA–10) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0377; Airspace Docket No. 11–AEA–10. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) Part 71 to establish Class E airspace at Bumpass, VA providing the controlled airspace required to support the new RNAV GPS standard instrument approach procedures for Lake Anna Airport. Controlled airspace extending upward from 700 feet above the surface is required for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E airspace at Lake Anna Airport, Bumpass, VA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Bumpass, VA [New]

Lake Anna Airport, VA
(Lat. 37°57′57″ N., long. 77°44′45″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Lake Anna Airport.

Issued in College Park, Georgia, on July 19, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–19159 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 405 and 406

RIN 1215–AB79; RIN 1245–AA03

Labor-Management Reporting and Disclosure Act; Interpretation of the ''Advice'' Exemption

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for comments on the proposed rule published on June 21, 2011 (76 FR 36178), regarding the interpretation of section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 433, and corresponding revisions to the Form LM–10 Employer Report and to the Form LM–20 Agreement and Activities Report. The comment period, which was to expire on August 22, 2011, is extended to September 21, 2011.

DATES: Comments on the proposed rule, published on June 21, 2011 (76 FR 36178), must be received on or before September 21, 2011.

ADDRESSES: You may submit comments, identified by RIN 1215–AB79 and 1245–AA03. (The Regulatory Information Number (RIN) identified for this rulemaking changed with publication of the Spring 2010 Regulatory Agenda due to an organizational restructuring. The old RIN (1215–AB79) was assigned to the Employment Standards Administration, which no longer exists; a new RIN (1245–AA03) has been assigned to the Office of Labor-Management Standards.) The comments can be submitted only by the following methods:

Internet: Federal eRulemaking Portal. Electronic comments may be submitted through *http://www.regulations.gov.* To locate the proposed rule, use RIN number 1245–AA03. Follow the instructions for submitting comments.

Delivery: Comments should be sent to: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210. Because of security precautions the Department continues to experience delays in U.S. mail delivery. You should take this into consideration when preparing to meet the deadline for submitting comments.

The Office of Labor-Management Standards (OLMS) recommends that you confirm receipt of your delivered comments by contacting (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD). Only those comments submitted through *http://www.regulations.gov,* hand-delivered, or mailed will be accepted. Comments will be available for public inspection at *http://www.regulations.gov* and during normal business hours at the above address.

The Department will post all comments received on *http://www.regulations.gov* without making any change to the comments, including any personal information provided. The *http://www.regulations.gov* Web site is the Federal eRulemaking Portal and all comments posted there are available and accessible to the public. The Department cautions commenters not to include personal information such as Social Security numbers, personal addresses, telephone numbers, and e-mail addresses in their comments as such submitted information will become viewable by the public via the *http://www.regulations.gov* Web site. It is the responsibility of the commenter to safeguard this information. Comments submitted through *http://www.regulations.gov* will not include the commenter's e-mail address unless the commenter chooses to include that information as part of his or her comment.

FOR FURTHER INFORMATION CONTACT: Andrew R. Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, *olms-public@dol.gov,* (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 21, 2011 (76 FR 36178), the Department published a notice of proposed rulemaking that would revise the interpretation of a statutory provision relating to the administration and enforcement of the employer and labor relations consultant ''persuader'' reporting requirements of section 203 of the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 433. The Department also proposed revisions to the Form LM–10 Employer Report and the Form LM–20 Agreements and Activities Report. Under section 203 of the LMRDA, reports are required on agreements or arrangements between employers and consultants regarding activities to persuade employees concerning their rights to organize and bargain collectively and to supply information to the employer concerning its employees or a labor organization involved in a labor dispute with such employer.

Interested persons were invited to submit comments on or before August 22, 2011, 60 days after the publication of the notice. Public commenters have requested an extension of time to submit comments. In response to these requests, the Department has decided to extend the comment period for an additional 30 days. Comments on the proposed rule must be received on or before September 21, 2011. An extension of this duration is appropriate, because it will afford parties a meaningful opportunity to submit comments on the proposal without unduly delaying final action on the proposed regulation. The proposed rule, including the proposed Forms LM–10 and LM–20 and their instructions, is accessible via the OLMS Web site at *http://www.olms.dol.gov.* Anyone who is unable to access this information on the Internet can obtain the information by contacting the Office of Labor-Management Standards at 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, at *olms-public@dol.gov,* or at (202) 693–0123 (this is not a toll-free number). Individuals with hearing impairments may call (800) 877–8339 (TTY/TDD).

Dated: July 25, 2011.

Signed in Washington, DC, this 25th day of July 2011.

John Lund,

Director, Office of Labor-Management Standards.

[FR Doc. 2011–19278 Filed 7–28–11; 8:45 am]

BILLING CODE 4510–CP–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

[Docket No. ATBCB 2011–04]

RIN 3014–AA26

Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of Proposed Rulemaking; Correction.

SUMMARY: This document corrects the proposed accessibility guidelines for pedestrian facilities in the public right-of-way published in the **Federal Register** on July 26, 2011. Some of the Web pages referenced in the preamble are inactive and some of the sections of the proposed guidelines contain incorrect references to other sections of the guidelines. This document corrects the Web page references and section references.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, DC 20004–1111. Telephone (202) 272–0025 (voice) or (202) 272–0028 (TTY). E-mail address *row@access-board.gov.*

SUPPLEMENTARY INFORMATION: A copy of the proposed accessibility guidelines for pedestrian facilities in the public right-of-way with the corrected Web page references and section references is available on the Access Board's Web site at: *http://www.access-board.gov/prowac/nprm.htm.*

Correction

In the proposed rule FR Doc. 2011–17721 in the issue of July 26, 2011, make the following corrections:

Corrections to the Preamble

1. On page 44683, column 1, footnote 45 is corrected to read as follows:

''45. Focus groups and surveys of pedestrians who are blind or have low vision commissioned by the Guide Dogs for the Blind Association in the United Kingdom and Netherlands document the difficulties that these pedestrians have using shared streets. See ''The Impact of Shared Surface Streets and Shared Use Pedestrian/Cycle Paths on the Mobility and Independence of Blind and Partially Sighted People'' (2010) available at: *http://gdbass.netefficiency.co.uk/fileadmin/sharedsurfaces/user/documents/TNS_Report_Text_version_Impact_of_shared_surface*

_streets_and_shared_use_paths_GD_2010.doc; ''Shared Surface Street Design Research Project, The Issues: Report of Focus Groups'' (2006) available at: *http://community.stroud.gov.uk/_documents/23_Shared_Surface_Street_Design_Research_Project.pdf;* and ''Shared Surface Street Design: Report of Focus Groups Held in Holland'' (2006) available at: *http://www.alanhunt.co/pdf/Report_of_Holland_Focus_Groups.pdf.''*

2. On page 44683, column 2, footnote 46 is corrected to read as follows:

''46. ''Shared Space Delineators, Are They Detectable?'' (2010) available at: *http://theihe.org/knowledge-network/uploads/Shared%20Space%20Delineators%20TfL%20Report.pdf.* See also ''Testing Proposed Delineators to Demarcate Pedestrian Paths in a Shared Space Environment, Report of Design Trials Conducted at University College London'' (2008) available at: *http://www.homezones.org.uk/public/downloads/news/Exec%20Summary%20&%20Full%20Report%20of%20design%20trials%20at%20UCL%20PAMELA%200108.pdf.''*

Corrections to Appendix to Part 1190—Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

1. On page 44689, column 2, in Advisory R204.2 Sidewalks, line 13, the reference to ''R309.6'' is corrected to ''R309.5.''

2. On page 44690, column 2, in R209.1 General, line 8, the reference to ''R406'' is corrected to ''R403.''

3. On page 44691, column 3, in Advisory R302.3 Continuous Width, line 10, the reference to ''R407.5'' is corrected to ''R407.4.''

4. On page 44692, column 1, in Advisory R302.6 Cross Slope, the sentence ''Cross slope requirements are contained in R304.2.3 for perpendicular curb ramps, in R304.3.3 for parallel curb ramps, in R304.4.2 for blended transitions, and in R407.3 for ramps'' is corrected to read ''Cross slope requirements are contained in R304.5.3 for curb ramps and blended transitions, and in R407.3 for ramps.''

5. On page 44693, column 3, in R306.2 Pedestrian Signal Phase Timing, line 4, the reference to ''R104.2.4'' is corrected to ''R104.2.''

6. On page 44695, column 3, in Advisory R403.1 General, line 5, the reference to ''R309.6'' is corrected to ''R309.5.''

7. On page 44695, column 3, in R403.3 Height, line 3, the reference to ''R405'' is corrected to ''R406.''

8. On page 44695, column 3, in Advisory R404.1 General, line 6, the reference to ''R309.6'' is corrected to ''R309.5.''

9. On page 44696, column 1, in R405.2.1 General, line 5, the reference to ''R404.2'' is corrected to ''R405.2.''

10. On page 44696, column 2, in R407.6 Landings, line 4, the reference to ''R407.7'' is corrected to ''R407.6.''

11. On page 44696, column 3, in Advisory R409.1 General, line 8, the reference to ''R216'' is corrected to ''R217.''

David Capozzi,

Executive Director.

[FR Doc. 2011–19224 Filed 7–28–11; 8:45 am]

BILLING CODE 8150–01–P

POSTAL SERVICE

39 CFR Part 111

Changes to Move Update Standards

AGENCY: Postal Service™.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Postal Service published in the **Federal Register** of July 12, 2011, a proposed rule pertaining to changes in Move Update standards, which established the comment period through August 11, 2011. This document extends the comment period.

DATES: The comment period is extended through August 31, 2011.

ADDRESSES: Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service®, 475 L'Enfant Plaza, SW., Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza, SW., 11th Floor North, Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments, containing the name and address of the commenter, may be sent to: *MailingStandards@usps.gov,* with a subject line of ''Move Update.'' Faxed comments are not accepted.

FOR FURTHER INFORMATION CONTACT: Jim Wilson at 901–681–4600 or Bill Chatfield at 202–268–7278.

SUPPLEMENTARY INFORMATION: The Postal Service published changes to a proposed rule in the **Federal Register** on July 12, 2011 (76 FR 40844), adding new sections 602.5.0 and 602.6.0 to the *Domestic Mail Manual* (DMM®) and revising the Move Update standards regarding change of address orders, by including in the revised standards change of address notices filed by postal employees. The proposed rule also deleted multiple sections throughout the DMM to centralize Move Update and ZIP Code™ accuracy standards under section 602. That proposed rule established August 11, 2011, as the deadline for receiving comments. This document extends the comment period through August 31, 2011.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2011–19177 Filed 7–28–11; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0419; FRL–9445–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 Fine Particle Standard for the Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, York, and Reading Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Harrisburg-Lebanon-Carlisle (Harrisburg), Johnstown, Lancaster, York, and Reading fine particle ($PM_{2.5}$) nonattainment areas (the Areas) in the Commonwealth of Pennsylvania have attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. These proposed determinations are based upon complete, quality assured, and certified ambient air monitoring data that show these Areas have monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS for the 2007–2009 monitoring period. These determinations are being taken in accordance with the requirements of the Clean Air Act (CAA).

In the Final Rules section of this **Federal Register**, EPA is making these determinations of attainment as a direct final rule without prior proposal because the Agency views these as noncontroversial actions and anticipates no adverse comments. A detailed rationale for the determinations is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated. If EPA receives adverse comments, the direct final rules will be withdrawn and all public comments received will be addressed in subsequent final rules based on these proposed rules. EPA will not institute a second comment period. Any parties

interested in commenting on these actions should do so at this time.

DATES: Comments must be received in writing by August 29, 2011

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0419 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2011–0419, Cristina Fernandez, Associate Director, Office of Air Quality Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0419. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gaige, (215) 814–5676, or by e-mail at *gaige.elizabeth@epa.gov*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final actions, with the same title, ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determinations of Attainment of the 1997 Fine Particle Standard for the Harrisburg-Lebanon-Carlisle, Johnstown, Lancaster, York, and Reading Nonattainment Areas'' located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of these rules and if that provision may be severed from the remainder of the rules, EPA may adopt as final those provisions of the rules that are not the subject of an adverse comment.

Dated: July 18, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2011–19142 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1998–0007; FRL–9445–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Notice of Intent for Deletion of the State Marine of Port Arthur Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a Notice of Intent to Delete the State Marine of Port Arthur (SMPA) Superfund Site located in Port Arthur, Texas, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Texas, through the Texas Commission on Environmental Quality, have determined that all appropriate response actions at these identified parcels under CERCLA, other than Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 29, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1998–0007, by one of the following methods:

- *http://www.regulations.gov:* Follow Internet on-line instructions for submitting comments.
- *E-mail:* Rafael Casanova, *casanova.rafael@epa.gov.*
- *Fax:* 214–665–6660.
- *Mail:* Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; *Contact:* Rafael A. Casanova (214) 665–7437. 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–SFUND–1998–0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly

to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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: (1) U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; Hours of operation: Monday thru Friday, 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Contact: Rafael A. Casanova (214) 665–7437.

(2) Port Arthur Public Library; 4615 9th Avenue; Port Arthur, Texas 77642–5799; Hours of operation: Monday thru Thursday, 9 a.m. to 9 p.m.; Friday, 9 a.m. to 6 p.m.; Saturday, 9 a.m. to 5 p.m.; and Sunday, 2 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733; *telephone number:* (214) 665–7437; *e-mail: casanova.rafael@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion for SMPA Superfund Site without prior Notice of Intent for Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comments. We have explained our reason for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent for Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent for Deletion. We will not institute a second comment period on this Notice of Intent for Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the Rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 22, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–19268 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0003; FRL–9445–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Notice of Intent for Deletion of the Palmer Barge Line Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 is issuing a Notice of Intent to Delete the Palmer Barge Line (PBL) Superfund Site located in Port Arthur, Texas, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Texas, through the Texas Commission on Environmental Quality, have determined that all appropriate response actions at these identified parcels under CERCLA, other than Five-Year Reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by August 29, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2000–0003, by one of the following methods:

- *http://www.regulations.gov:* Follow Internet on-line instructions for submitting comments.
- *E-mail:* Rafael Casanova, *casanova.rafael@epa.gov.*
- *Fax:* 214–665–6660.
- *Mail:* Rafael A. Casanova; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733.
- *Hand delivery:* U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; *Contact:* Rafael A. Casanova (214) 665–7437. 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–SFUND–2000–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to

technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the 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:

1. U.S. Environmental Protection Agency, Region 6; 1445 Ross Avenue, Suite 700; Dallas, Texas 75202–2733; Hours of operation: Monday thru Friday, 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Contact: Rafael A. Casanova (214) 665–7437.

2. Port Arthur Public Library; 4615 9th Avenue; Port Arthur, Texas 77642–5799; Hours of operation: Monday thru Thursday, 9 a.m. to 9 p.m.; Friday, 9 a.m. to 6 p.m.; Saturday, 9 a.m. to 5 p.m.; and Sunday, 2 p.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Rafael A. Casanova, Remedial Project Manager; U.S. Environmental Protection Agency, Region 6; Superfund Division (6SF–RA); 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202–2733; telephone number: (214) 665–7437; e-mail: *casanova.rafael@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Deletion for the PBL Superfund Site without prior Notice of Intent for Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comments. We have explained our reason for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent for Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent for Deletion. We will not institute a second comment period on this Notice of Intent for Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the Rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 22, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–19280 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–B–1037]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On March 25, 2009, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 74 FR 12804. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Livingston County, Kentucky, and Incorporated Areas. Specifically, it addresses the following flooding sources: Bayou Creek (backwater effects from Ohio River), Bayou Creek Tributary 20 (backwater effects from Ohio River), Bissell Creek (backwater effects from Ohio River), Buck Creek (backwater effects from Ohio River), Claylick Creek (backwater effects from Ohio River), Cooper Creek (backwater effects from Tennessee River), Cumberland River (backwater effects from Ohio River), Cypress Creek (backwater effects from Ohio River), Deer Creek (backwater effects from Ohio River), Dry Branch (backwater effects from Tennessee River), Dry Fork (backwater effects from Ohio River), Dyer Hill Creek (backwater effects from Ohio River), Ferguson Creek (backwater effects from Ohio River), Givens Creek (backwater effects from Ohio River), Guess Creek (backwater effects from Tennessee River), Guess Creek Tributary 9 (backwater effects from Tennessee River), Hickory Creek (backwater effects from Ohio River), Jones Creek (backwater effects from Tennessee River), Kentucky Lake, Lake Barkley, Lee Creek (backwater effects from Tennessee River), McCormick Creek (backwater effects from Ohio River), McGilligan Creek (backwater effects from Ohio River), Ohio River, Phelps Creek (backwater effects from Ohio River), Phelps Creek Tributary 2 (backwater effects from Ohio River), Sandy Creek (backwater effects from Ohio River), Smith Creek (backwater effects from Ohio River), Snglin Creek (backwater effects from Ohio River), Sugar Creek (backwater effects from Ohio River), Sugarcamp Creek (backwater effects from Ohio River), Sugarcamp Creek Tributary 3 (backwater effects from Ohio River), the Tennessee River, and Turkey Creek (backwater effects from Ohio River).

DATES: Comments are to be submitted on or before October 27, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1037, 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) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), 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 minimum requirements. 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.

Corrections

In the proposed rule published at 74 FR 12804, in the March 25, 2009, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table entitled ''Livingston County, Kentucky and Incorporated Areas'' addressed the flooding sources Kentucky Lake, Lake Barkley, Ohio River, and Tennessee River. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for those flooding sources. In addition, it did not include the following flooding sources: Bayou Creek (backwater effects from Ohio River), Bayou Creek Tributary 20 (backwater effects from Ohio River), Bissell Creek (backwater effects from Ohio River), Buck Creek (backwater effects from Ohio River), Claylick Creek (backwater effects from Ohio River), Cooper Creek (backwater effects from Tennessee River), Cumberland River (backwater effects from Ohio River), Cypress Creek (backwater effects from Ohio River), Deer Creek (backwater effects from Ohio River), Dry Branch (backwater effects from Tennessee River), Dry Fork (backwater effects from Ohio River), Dyer Hill Creek (backwater effects from Ohio River), Ferguson Creek (backwater effects from Ohio River), Givens Creek (backwater effects from Ohio River), Guess Creek (backwater effects from Tennessee River), Guess Creek Tributary 9 (backwater effects from Tennessee River), Hickory Creek (backwater effects from Ohio River), Jones Creek (backwater effects from Tennessee River), Lee Creek (backwater effects from Tennessee River), McCormick Creek (backwater effects from Ohio River), McGilligan Creek (backwater effects from Ohio River), Phelps Creek (backwater effects from Ohio River), Phelps Creek Tributary 2 (backwater effects from Ohio River), Sandy Creek (backwater effects from Ohio River), Smith Creek (backwater effects from Ohio River), Snglin Creek (backwater effects from Ohio River), Sugar Creek (backwater effects from Ohio River), Sugarcamp Creek (backwater effects from Ohio River), Sugarcamp Creek Tributary 3 (backwater effects from Ohio River), and Turkey Creek (backwater effects from Ohio River). In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

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	
Livingston County, Kentucky, and Incorporated Areas				
Bayou Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 4.7 miles upstream of the Sugarcamp Creek confluence.	None	+348	Unincorporated Areas of Livingston County.
Bayou Creek Tributary 20 (backwater effects from Ohio River).	From the Bayou Creek confluence to approximately 1.8 miles upstream of the Bayou Creek confluence.	None	+348	Unincorporated Areas of Livingston County.
Bissell Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 2.9 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Buck Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 3.3 miles upstream of the Ohio River confluence.	None	+355	Unincorporated Areas of Livingston County.
Claylick Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 5 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Cooper Creek (backwater effects from Tennessee River).	From the Tennessee River confluence to approximately 2.2 miles upstream of the Tennessee River confluence.	None	+343	Unincorporated Areas of Livingston County.
Cumberland River (backwater effects from Ohio River).	From the Ohio River confluence to approximately 2.5 miles upstream of the Cypress Creek confluence.	None	+343	City of Smithland, Unincorporated Areas of Livingston County.
Cypress Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 3.2 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Deer Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 1.7 miles upstream of the Turkey Creek confluence.	None	+356	Unincorporated Areas of Livingston County.
Dry Branch (backwater effects from Tennessee River).	From the Tennessee River confluence to approximately 0.6 mile upstream of the Tennessee River confluence.	None	+342	Unincorporated Areas of Livingston County.
Dry Fork (backwater effects from Ohio River).	From the Sandy Creek confluence to approximately 2.6 miles upstream of the Sandy Creek confluence.	None	+343	Unincorporated Areas of Livingston 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	
Dyer Hill Creek (backwater effects from Ohio River).	From approximately 3 miles upstream of the Ohio River confluence to approximately 4.4 miles upstream of the Ohio River confluence.	None	+345	Unincorporated Areas of Livingston County.
Ferguson Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 2.1 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Givens Creek (backwater effects from Ohio River).	From approximately 1 mile upstream of the Ohio River confluence to approximately 2.6 miles upstream of the Ohio River confluence.	None	+352	Unincorporated Areas of Livingston County.
Guess Creek (backwater effects from Tennessee River).	From the Tennessee River confluence to approximately 3.3 miles upstream of the Tennessee River confluence.	None	+342	Unincorporated Areas of Livingston County.
Guess Creek Tributary 9 (backwater effects from Tennessee River).	From the Tennessee River confluence to approximately 0.8 mile upstream of the Tennessee River confluence.	None	+342	Unincorporated Areas of Livingston County.
Hickory Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 3.8 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Jones Creek (backwater effects from Tennessee River).	From the Cooper Creek confluence to approximately 1.8 miles upstream of the Cooper Creek confluence.	None	+343	Unincorporated Areas of Livingston County.
Kentucky Lake	Entire shoreline	None	+375	City of Grand Rivers, Unincorporated Areas of Livingston County.
Lake Barkley	Entire shoreline	None	+375	City of Grand Rivers, Unincorporated Areas of Livingston County.
Lee Creek (backwater effects from Tennessee River).	From the Tennessee River confluence to approximately 2 miles upstream of the Tennessee River confluence.	None	+342	Unincorporated Areas of Livingston County.
McCormick Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 2 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
McGilligan Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 4.4 miles upstream of the Ohio River confluence.	None	+350	Unincorporated Areas of Livingston County.
Ohio River	Just upstream of the Tennessee River confluence	None	+340	City of Carrsville, City of Smithland, Unincorporated Areas of Livingston County.
	Approximately 3,500 feet upstream of the Deer Creek confluence.	None	+356	
Phelps Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 2.2 miles upstream of the Ohio River confluence.	None	+346	Unincorporated Areas of Livingston County.
Phelps Creek Tributary 2 (backwater effects from Ohio River).	From the Phelps Creek confluence to approximately 0.3 mile upstream of the Phelps Creek confluence.	None	+346	Unincorporated Areas of Livingston County.
Sandy Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 3 miles upstream of the Dry Fork confluence.	None	+343	Unincorporated Areas of Livingston County.
Smith Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 2.2 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Snglin Creek (backwater effects from Ohio River).	From the Hickory Creek confluence to approximately 1,350 feet upstream of the Hickory Creek confluence.	None	+343	Unincorporated Areas of Livingston County.
Sugar Creek (backwater effects from Ohio River).	From the Cumberland River confluence to approximately 5.7 miles upstream of the Cumberland River confluence.	None	+343	Unincorporated Areas of Livingston County.
Sugarcamp Creek (backwater effects from Ohio River).	From the Bayou Creek confluence to approximately 3 miles upstream of the Bayou Creek confluence.	None	+348	Unincorporated Areas of Livingston County.
Sugarcamp Creek Tributary 3 (backwater effects from Ohio River).	From the Sugarcamp Creek confluence to approximately 1.4 miles upstream of the Sugarcamp Creek confluence.	None	+348	Unincorporated Areas of Livingston County.
Tennessee River	Approximately 5,100 feet downstream of the Hodges Creek confluence.	None	+341	Unincorporated Areas of Livingston 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	
Turkey Creek (backwater effects from Ohio River).	At the downstream side of the Kentucky Dam	None	+343	Unincorporated Areas of Livingston County.
	From the Deer Creek confluence to approximately 0.8 mile upstream of the Deer Creek confluence.	None	+356	

* 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 Carrsville
Maps are available for inspection at the Livingston County Courthouse, 339 Courthouse Drive, Smithland, KY 42081.

City of Grand Rivers
Maps are available for inspection at City Hall, 122 West Cumberland Avenue, Grand Rivers, KY 42045.

City of Smithland
Maps are available for inspection at the City Hall, 310 Wilson Avenue, Smithland, KY 42081.

Unincorporated Areas of Livingston County
Maps are available for inspection at the Livingston County Courthouse, 339 Courthouse Drive, Smithland, KY 42081.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 15, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–19241 Filed 7–28–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1007]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On September 25, 2008, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 73 FR 55469. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Henderson County, Kentucky, and Incorporated Areas. Specifically, it addresses the flooding sources Canoe Creek, Canoe Creek Tributary 1 (backwater effects from Ohio River), Cash Creek (backwater effects from Ohio River), Elam Ditch, Elam Ditch Tributary 1, Elam Ditch Tributary 1.1 (backwater effects from Elam Ditch Tributary 1), Elam Ditch Tributary 2, Elam Ditch Tributary 3, Elam Ditch Tributary 4 (backwater effects from Elam Ditch), Elam Ditch Tributary 8 (backwater effects from Elam Ditch), Grane Creek (backwater effects from Ohio River), Grane Creek Tributary 1 (backwater effects from Ohio River), Grane Creek Tributary 5 (backwater effects from Ohio River), Kimsey Lane Left Tributary, Kimsey Lane Right Tributary, Lick Creek (backwater effects from Ohio River), Lick Creek Tributary 2 (backwater effects from Ohio River), Lick Creek Tributary 2.1 (backwater effects from Ohio River), Lick Creek Tributary 4 (backwater effects from Ohio River), Middle Canoe Creek, North Fork Canoe Creek, Ohio River, Old Knoblick Road Creek (backwater effects from Ohio River), Pond Creek (overflow effects from Ohio River), Pond Creek Tributary 6 (overflow effects from Ohio River), Race Creek (backwater effects from Ohio River), Sellers Ditch, Sputzman Creek (backwater effects from Ohio River), Sputzman Creek Tributary 1 (backwater effects from Ohio River), Sputzman Creek Tributary 2 (backwater effects from Ohio River), Sugar Creek (backwater effects from Ohio River), Tiger Ditch (formerly Highway 812 Tributary), Tiger Ditch Tributary 1, and Upper Canoe Creek.

DATES: Comments are to be submitted on or before October 27, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1007, 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) publishes proposed determinations of Base (1% annual-

chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), 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 minimum requirements. 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.

Corrections

In the Proposed Rule published at 73 FR 55469 in the September 25, 2008, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Henderson County, Kentucky, and Incorporated Areas'' addressed the following flooding sources: Canoe Creek, Elam Ditch, Elam Ditch Tributary 1, Elam Ditch Tributary 2, Elam Ditch Tributary 3, Kimsey Lane Left Tributary, Kimsey Lane Right Tributary, Middle Canoe Creek, North Fork Canoe Creek, Sellers Ditch, Tiger Ditch (Formerly Highway 812 Tributary), Tiger Ditch Tributary 1 and Upper Canoe Creek. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for those flooding sources: In addition, it did not include the following flooding sources: Canoe Creek Tributary 1 (backwater effects from Ohio River), Cash Creek (backwater effects from Ohio River), Elam Ditch Tributary 1.1 (backwater effects from Elam Ditch Tributary 1), Elam Ditch Tributary 4 (backwater effects from Elam Ditch), Elam Ditch Tributary 8 (backwater effects from Elam Ditch), Grane Creek (backwater effects from Ohio River), Grane Creek Tributary 1 (backwater effects from Ohio River), Grane Creek Tributary 5 (backwater effects from Ohio River), Lick Creek (backwater effects from Ohio River), Lick Creek Tributary 2 (backwater effects from Ohio River), Lick Creek Tributary 2.1 (backwater effects from Ohio River), Lick Creek Tributary 4 (backwater effects from Ohio River), Ohio River, Old Knoblick Road Creek (backwater effects from Ohio River), Pond Creek (overflow effects from Ohio River), Pond Creek Tributary 6 (overflow effects from Ohio River), Race Creek (backwater effects from Ohio River), Sputzman Creek (backwater effects from Ohio River), Sputzman Creek Tributary 1 (backwater effects from Ohio River), Sputzman Creek Tributary 2 (backwater effects from Ohio River), and Sugar Creek (backwater effects from Ohio River). In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

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	
Henderson County, Kentucky, and Incorporated Areas				
Canoe Creek	At the upstream side of U.S. Route 41	None	+376	City of Henderson, Unincorporated Areas of Henderson County.
	At the Elam Ditch confluence	None	+383	
Canoe Creek Tributary 1 (backwater effects from Ohio River).	From approximately 500 feet upstream of the Canoe Creek confluence to approximately 900 feet upstream of KY–136.	None	+376	City of Henderson, Unincorporated Areas of Henderson County.
Cash Creek (backwater effects from Ohio River).	From the Green River confluence to approximately 800 feet upstream of Griffin and Griffin Road.	None	+386	Unincorporated Areas of Henderson County.
Elam Ditch	At the Canoe Creek confluence	None	+383	Unincorporated Areas of Henderson County.
	At Airline Road (KY–812)	None	+393	
Elam Ditch Tributary 1	At the Elam Ditch confluence	None	+384	Unincorporated Areas of Henderson County.
	Approximately 1,250 feet downstream of Toy Anthoston Road (KY–2677).	None	+395	
Elam Ditch Tributary 1.1 (backwater effects from Elam Ditch Tributary 1).	From the Elam Ditch Tributary 1 confluence to approximately 1,200 feet upstream of the Elam Ditch Tributary 1 confluence.	None	+384	Unincorporated Areas of Henderson County.
Elam Ditch Tributary 2	At the Elam Ditch confluence	None	+384	Unincorporated Areas of Henderson County.
	At the downstream side of Airline Road (KY–812)	None	+395	
Elam Ditch Tributary 3	At the Elam Ditch confluence	None	+384	Unincorporated Areas of Henderson County.
	At the downstream side of Toy Anthoston Road	None	+389	
Elam Ditch Tributary 4 (backwater effects from Elam Ditch).	From the Elam Ditch confluence to approximately 0.5 mile upstream of the Elam Ditch confluence.	None	+383	Unincorporated Areas of Henderson 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	
Elam Ditch Tributary 8 (backwater effects from Elam Ditch).	From the Elam Ditch confluence to approximately 1,100 feet upstream of the Elam Ditch confluence.	None	+393	Unincorporated Areas of Henderson County.
Grane Creek (backwater effects from Ohio River).	From approximately 1,200 feet downstream of Quinns Landing Road to approximately 1.0 mile upstream of Quinns Landing Road.	None	+386	Unincorporated Areas of Henderson County.
Grane Creek Tributary 1 (backwater effects from Ohio River).	From approximately 0.2 mile downstream of Quinns Landing Road to the upstream side of Quinns Landing Road.	None	+386	Unincorporated Areas of Henderson County.
Grane Creek Tributary 5 (backwater effects from Ohio River).	From the Grane Creek confluence to approximately 1,800 feet upstream of the Grane Creek confluence.	None	+386	City of Robards, Unincorporated Areas of Henderson County.
Kimsey Lane Left Tributary ...	At the North Fork Canoe Creek confluence	+387	+388	City of Henderson, Unincorporated Areas of Henderson County.
	Approximately 750 feet upstream of Van Wyk Road ...	+387	+388	
Kimsey Lane Right Tributary	At the North Fork Canoe Creek confluence	+387	+388	City of Henderson, Unincorporated Areas of Henderson County.
	At Kimsey Lane (KY–6112)	+387	+388	
Lick Creek (backwater effects from Ohio River).	From the upstream side of Sportsville-Bluff City Road to approximately 1.1 miles downstream of Zion Rd.	None	+383	Unincorporated Areas of Henderson County.
Lick Creek Tributary 2 (backwater effects from Ohio River).	From the Lick Creek confluence to the downstream side of Zion Road.	None	+383	Unincorporated Areas of Henderson County.
Lick Creek Tributary 2.1 (backwater effects from Ohio River).	From the Lick Creek Tributary 2 confluence to approximately 1,600 feet upstream of the Lick Creek Tributary 2 confluence.	None	+383	Unincorporated Areas of Henderson County.
Lick Creek Tributary 4 (backwater effects from Ohio River).	From the Lick Creek confluence to approximately 0.9 mile upstream of the Lick Creek confluence.	None	+383	Unincorporated Areas of Henderson County.
Middle Canoe Creek	At the Sellers Ditch confluence	+379	+382	City of Henderson, Unincorporated Areas of Henderson County.
	At the Elam Ditch confluence	+380	+382	
North Fork Canoe Creek	At the Canoe Creek confluence	+378	+382	City of Henderson, Unincorporated Areas of Henderson County.
	Approximately 4,000 feet upstream of Kimsey Lane (KY–6112).	+387	+389	
Ohio River	Approximately 2.4 miles upstream of the northwest county boundary (at River Mile Marker 829.7).	+371	+372	City of Henderson, Unincorporated Areas of Henderson County.
	Approximately 5.0 miles upstream of the northeast county boundary (at River Mile Marker 766.5).	+385	+386	
Old Knoblick Road Creek (backwater effects from Ohio River).	From approximately 0.6 mile downstream of Knoblick Road to approximately 800 feet downstream of Knoblick Road.	None	+386	Unincorporated Areas of Henderson County.
Pond Creek (overflow effects from Ohio River).	At the downstream side of Gray-Aldridge Road	+371	+372	Unincorporated Areas of Henderson County.
	Approximately 0.9 mile upstream of Martin and Martin Road.	None	+373	
Pond Creek Tributary 6 (overflow effects from Ohio River).	At the Pond Creek confluence	None	+373	Unincorporated Areas of Henderson County.
	Approximately 600 feet downstream of KY–268	None	+374	
Race Creek (backwater effects from Ohio River).	From the Green River confluence to approximately 200 feet upstream of KY–1078.	None	+381	Unincorporated Areas of Henderson County.
Sellers Ditch	At the Canoe Creek confluence	+377	+376	Unincorporated Areas of Henderson County.
	Approximately 200 feet upstream of Old Madison Road.	+379	+382	
Sputzman Creek (backwater effects from Ohio River).	From approximately 0.8 mile upstream of the Green River confluence to approximately 2.0 miles upstream of the Green River confluence.	None	+386	Unincorporated Areas of Henderson 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	
Sputzman Creek Tributary 1 (backwater effects from Ohio River).	From the Sputzman Creek confluence to approximately 1.2 miles upstream of the Sputzman Creek confluence.	None	+386	Unincorporated Areas of Henderson County.
Sputzman Creek Tributary 2 (backwater effects from Ohio River).	From the Sputzman Creek confluence to approximately 0.6 miles upstream of Sputzman Creek.	None	+386	Unincorporated Areas of Henderson County.
Sugar Creek (backwater effects from Ohio River).	From the Ohio River confluence to approximately 1,700 feet upstream of the Ohio River confluence.	+377	+376	City of Henderson.
Tiger Ditch (formerly Highway 812 Tributary).	At the North Fork Canoe Creek confluence	+379	+382	City of Henderson, Unincorporated Areas of Henderson County.
	Approximately 150 feet downstream of Zion Road	None	+391	
Tiger Ditch Tributary 1	At the Tiger Ditch (formerly Highway 812 Tributary) confluence.	None	+385	City of Henderson, Unincorporated Areas of Henderson County.
	At the downstream side of Adams Lane	None	+390	
Upper Canoe Creek	At the Sellers Ditch confluence	+379	+382	Unincorporated Areas of Henderson County.
	Approximately 3,800 feet upstream of the East Fork Canoe Creek confluence.	+382	+385	

* 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 Henderson
Maps are available for inspection at 222 1st Street, Henderson, KY 42419.

City of Robards
Maps are available for inspection at 20 North Main Street, Henderson, KY 42420.

Unincorporated Areas of Henderson County
Maps are available for inspection at 20 North Main Street, Henderson, KY 42420.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: July 15, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–19243 Filed 7–28–11; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 99–25; MB Docket No. 07–172, RM–11338; FCC 11–105]

Creation of a Low Power Radio Service; Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission considers how the recently enacted Local Community Radio Act (''LCRA'') will impact future LPFM and translator station licensing. Section 5 of the Act requires the Commission to ensure that: Licenses are available for both LPFM and translator stations; licensing decisions are based on community needs; and translator and LPFM stations remain equal in status. The item tentatively finds that a previously adopted cap on translator applications is inconsistent with the LCRA's directives. It considers three alternate processing schemes, and tentatively concludes that a market-specific processing policy would most faithfully implement section 5's directives. The item sets forth proposed LPFM channel floors for the top 150 markets, and proposes to dismiss all translator applications in markets where the number of available LPFM channels is below the channel floor. The item also considers whether the Commission should take additional steps to prevent the trafficking of translator construction permits, and whether translators from Auction No. 83 should be allowed to

rebroadcast the signals of AM stations at night.

DATES: Comments must be filed on or before August 29, 2011, and reply comments must be filed on or before September 12, 2011.

ADDRESSES: You may submit comments, identified by MM Docket No. 99–25 and MB Docket No. 07–172, by any of the following methods:

• *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

• *Mail:* Commission's Secretary, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, or phone: 202–418–0530 or TTY: 202–418–0432).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the supplementary information section of this document.

FOR FURTHER INFORMATION CONTACT: Peter Doyle, (202) 418–2789.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking, MM Docket No. 99–25; MB Docket No. 07–172, RM–11338, adopted and released on July 12, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.*

Comment Period and Procedures

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Summary of Proposed Rulemaking

1. In this *Third Further Notice of Proposed Rule Making* (''*Third Further Notice''*), the Commission seeks comment on the impact of the enactment of the LCRA on the procedures previously adopted to process the approximately 6,500 applications which remain pending from the 2003 FM translator window. The goals of this proceeding are to develop FM translator application processing policies that faithfully implement LCRA directives, to resume promptly the licensing of the remaining translator applications consistent with those directives, and to chart a path forward to the licensing of new LPFM stations in accordance with the framework established by the LCRA.

2. Under the Commission's rules, LPFM and FM translator applications may be filed only during ''windows'' announced by the Commission. Translator applications have priority over later-filed LPFM applications. The last LPFM filing window was in 2001. The translator applications at issue here have been pending since 2003, when they were filed in response to an FM non-reserved band translator-only window, Auction No. 83. This window generated over 13,000 applications. In 2005, the Commission froze processing of the applications due to concerns that they would limit LPFM licensing opportunities. In doing so, the Commission noted the need to address a basic question set forth in a 2004 Notice of Inquiry in the broadcast localism proceeding: ''Recognizing that both LPFM stations and translators provide valuable service, what licensing rule changes should the Commission adopt to resolve competing demands by stations in these two services for the same limited spectrum?''

3. On December 11, 2007, the Commission released a *Third Report and Order and Second Further Notice of Proposed Rulemaking* (''*Third Report and Order''* or ''*Second Further Notice''*) in MM Docket No. 99–25. The Commission considered whether Auction No. 83 filing activity had adversely impacted its goal to provide to both LPFM and translator applicants reasonable access to limited FM spectrum in a manner which promotes the ''fair, efficient, and equitable distribution of radio service,'' and concluded that processing all of the then-pending 7,000 translator applications would frustrate the development of the LPFM service. To address this concern, the *Third Report and Order* established a going-forward limit of ten pending short-form FM translator applications per applicant from Auction No. 83, and directed the Media Bureau (''Bureau'') to resume processing the applications of those applicants in compliance with this numerical cap. The Commission found that this limit would not have an adverse impact on more than 80 percent of those applicants and would appropriately balance the equitable interests of the remaining 20 percent against important LPFM licensing goals and policies.

4. On January 4, 2011, President Obama signed the LCRA into law. Among other things, the LCRA expands LPFM licensing opportunities by repealing the requirement that LPFM stations operate a minimum distance from nearby stations operating on ''third-adjacent'' channels. Section 5 of the LCRA requires the Commission, when licensing FM translator, FM booster and LPFM stations, to ensure that: licenses are available to FM translator stations, FM booster stations, and low-power FM stations; that licensing decisions are made based on the needs of the local community; and that FM translator stations, FM booster stations, and low-power FM stations

remain equal in status and secondary to existing and modified FM stations.

A. Issues Relating to Section 5 of the LCRA

5. *Section 5(1)—Ensuring that licenses are available.* In its broadest terms, section 5(1) is clear: it mandates that the Commission adopt licensing procedures that ensure some minimum number of licensing opportunities for each service throughout the nation. Read together with section 5(2), we also interpret section 5(1) to require the Commission to provide, to the extent possible, licensing opportunities for both services in as many local communities as possible. Prior to the enactment of the LCRA, several commenters raised concerns directly related to this section 5(1) mandate. They argued that the nationwide cap, which does not operate based on spectrum availability in specific areas, would not ensure future LPFM opportunities in certain larger spectrum-limited markets. These commenters contended that translator applicants would attempt to retain their most valuable applications which propose service to densely populated areas. Due to the very large number of pending applications in these markets, they predict that a cap-based dismissal process would result in the dismissal of some—but not all—applications proposing facilities on channels and at locations otherwise available for LPFM licensing. Thus, they claim, the anticipated dismissals would not, in fact, ''free up'' spectrum for new LPFM stations at or near the locations specified in the dismissed translator applications because ''blocking'' translator applications would remain. The Media Bureau has carefully reviewed the Common Frequency study. It has found that the methodology is reasonable. Using similar assumptions, the Bureau has undertaken limited analyses of a number of other large markets. It also found that ''blocking'' translator applications would likely remain following the completion of the cap dismissal process due to the very high number of pending applications and/or discrete applicants in these markets. These findings raise significant concerns about whether the ten-application cap would be a certain and effective processing policy for preserving LPFM licensing opportunities in many larger markets. We seek comment on this issue.

6. Following the enactment of the LCRA, the Bureau undertook a nationwide LPFM spectrum availability analysis. The Bureau studied all top 150 radio markets, as defined by Arbitron, and smaller markets where more than four translator applications are pending. The results of that analysis are presented in Appendix A of the *Third Further Notice.* The total number of identified channels (''LPFM Channels'') currently available for LPFM use is listed in the ''Channel'' column.

7. The Bureau analysis establishes that no or limited useful spectrum for future LPFM stations is likely to remain in numerous specific radio markets unless the translator dismissal procedures reliably result in the dismissal of *all* ''blocking'' translator applications. For example, no channels would be available for LPFM licensing in 13 of the top 30 markets and only one or two channels would be available in six others if ''blocking'' translator applications remain. Based on the record developed in the proceeding, we tentatively conclude that the ten-application cap is inconsistent with section 5(1) because it would not ''ensure'' that licenses will be available in spectrum-congested markets for future LPFM licensing. Moreover, the Bureau has determined, using the same spectrum availability methodology, that LPFM licensing opportunities would be increased in certain spectrum-limited markets if LPFM applicants were not required to protect pending translator applications. For example, in Phoenix, the number of available channels available for LPFM licensing would increase from three to five. In Houston the number of available channels would increase from one to two. The Bureau's analysis also establishes that market size, alone, is a poor proxy for LPFM spectrum availability. For example, there appears to be ample spectrum for new LPFM stations in Sacramento (Market #27) and none in Stamford-Norwalk (Market #147). In particular, the proximity of smaller markets to larger ones in the nation's most populous areas appears to impact spectrum availability significantly.

8. We recognize certain limitations in the data used by the Bureau in its analysis and note, in particular, a number of unknowns. These include site suitability and availability, population levels near studied locations, and demand for LPFM licenses at these locations. Future full service station licensing and settlement activity among the remaining translator applicants also could impact spectrum availability. Given these limitations, the ''Channel'' and ''Total Stations'' availability determinations likely overstate, and in some cases may substantially overstate, the number of potential *bona fide* licenses that will be available to future LPFM applicants in each market. Nevertheless, we believe the results shown in Appendix A provide a useful measure of LPFM spectrum availability. We seek comment on the Bureau study, the validity of its methodology and its relevance in informing our translator dismissal policy. We also seek comment on other measures of LPFM spectrum availability and welcome the submission of alternate spectrum availability assessments, both nationally and in particular markets.

9. Given the tentative conclusion that the ten-application cap processing policy is inconsistent with the statutory mandate to ensure some minimum number of LPFM licensing opportunities in as many local communities as possible, the *Third Further Notice* considers how best to process the remaining translator applications in a manner that is consistent with the LCRA. The Commission could apply several different standards to establish compliance with an ''available'' licenses threshold for each service consistent with section 5(1). Specifically, we seek comment on whether we should take into account existing translator and LPFM licenses in making a ''licenses are available'' finding. In this regard, we note that the word ''new'' appears in the first clause of section 5 but not in subparagraph 1, suggesting that we should consider the availability of both new and existing stations. Alternatively, section 5(1) could be interpreted merely as a going-forward standard, limited to ensuring a future balance between *new* translator and *new* LPFM licenses. Under this interpretation, the presence of a licensed translator or LPFM station would not enter into a licensing decision under section 5(1). We seek comment on these and other possible interpretations of section 5(1) and their impact on our treatment of the pending translator applications.

10. The issue whether to take existing licenses into account may be particularly significant in light of the present disparity between the two services. Currently, 1921 translators are licensed at locations within the top 200 Arbitron-rated markets. In contrast, 290 LPFM stations operate in the top 200 markets. The Commission has licensed approximately 2,700 translator stations from the 2003 window and approximately 860 LPFM stations from the 2000–01 windows. Thus, taking into account existing translators and LPFM stations, or even just those licensed for the first time during the past decade, would militate in favor of the dismissal of translator applications, at least in markets where there is little or no

remaining spectrum for future LPFM stations or where substantially fewer licensing opportunities remain. Does an interpretation that could have that effect conflict with the section 5(3) requirement that translator and LPFM stations remain ''equal in status''? We seek comment on these issues.

11. Finally, it appears that it will be significantly easier to ensure that licenses will be available for future translator stations than for LPFM stations. As previously noted, licensing asymmetries between the translator and LPFM services make it unlikely that LPFM licensing will preclude translator licensing opportunities, even in spectrum-limited markets. The translator protection rule, § 74.1204, which is substantially more flexible than the minimum spacing requirements governing the LPFM service, facilitates the filing of technically acceptable applications in a window. It also facilitates the resolution of technical conflicts among competing applications, thereby permitting numerous grants from individual mutually exclusive groups under the translator auction settlement procedures. We tentatively conclude that these considerations establish that the Commission's primary focus in effectuating section 5(1) must be to ensure translator licensing procedures do not foreclose or unduly limit future LPFM licensing. We seek comment on this conclusion.

12. *Section 5(2)—Assessing the ''needs of the local community.''* The section 5(2) directive to base translator and LPFM licensing decisions on the ''needs of the local community'' could be interpreted to concern solely the needs of communities for additional LPFM service on the theory that translators cannot be expected to provide meaningful local service, at least in larger markets. We seek comment on whether, based on a consideration of section 5 in its entirety, the obligation to make licensing decisions based on the ''needs of the local community'' reflects a Congressional finding that both translators and LPFM stations can be expected to serve community needs. We note that the Commission similarly concluded in 2007 that each of these services can provide important programming to their local communities.

13. We also seek comment on whether and how to compare the two services in assessing local community needs. Significant differences exist in translator and LPFM eligibility, licensing and service rules, differences that can dramatically affect the ability of these stations to serve the needs of their communities. Translators may not, except in certain narrow circumstances, originate programming. A translator is not required to place a certain strength signal over its community of license or comply with minimum operating schedule requirements. A translator licensee is not required to broadcast programs that provide significant treatment of community issues or maintain issues/program lists. Licensing rules for new translator stations neither limit eligibility to nor favor local applicants.

14. The Commission has traditionally assessed the comparative ''needs of a community'' for radio service as part of its obligation to ''provide a fair, efficient, and equitable distribution of radio service. * * *'' For example, the Commission established last year a Tribal Priority to advance section 307(b) goals ''by enabling Indian Tribal governments to provide radio service tailored to the *needs and interests of their local communities.* * * *'' Under long-standing and well established case law, translators are accorded *no weight* in assessing local service levels in FM allotment proceedings. The Commission, in the analogous context of low-power television and television translator licensing, has stated that the application of section 307(b) principles would be ''inappropriate'' because such cases would not ''present a meaningful section 307(b) issue.''

15. The main rationales for the exclusion of translators from section 307(b) assessments are their status as secondary stations and, as a related matter, their potential preemption by full-service stations. LPFM stations also face potential displacement from full service stations. In sharp contrast to the translator service, however, the LPFM service was specifically created to fill a perceived gap in the way that full-power stations meet community needs—''to foster a program service responsive to the needs and interests of small community groups, particularly specialized community needs that have not been well served by commercial broadcast stations.'' Thus, under the Commission's rules, LPFM stations may originate programming; those that pledge to do so receive a licensing preference. LPFM stations must be locally owned. No party may hold an attributable interest in an LPFM station and another broadcast station. This restriction ensures that each licensed LPFM station *necessarily* expands ownership diversity in its community of license. The LPFM licensing rules promote share-time settlements between or among competing local applicants, further encouraging ownership diversity where spectrum is limited. For these reasons, the Commission has concluded that LPFM eligibility, selection and service rules ''*will ensure* that LPFM licensees will meet the needs and interests of their communities.''

16. We seek comment on whether the Commission should take cognizance of the differing eligibility, licensing, and service rules for the translator and LPFM services in assessing the ''needs of a community'' for additional radio service. If so, how heavily should this directive weigh in favor of future LPFM licensing? What specific translator application procedures should the Commission adopt to give effect to section 5(2)? We also seek comment on alternate interpretations of section 5(2) and their impact on licensing procedures for the pending translator applications.

17. *Section 5(3)—''Equal in Status.''* Section 5(3) requires that translator and LPFM stations ''remain equal in status and secondary to existing and modified full-service FM stations.'' We invite comment on whether and how this requirement impacts our treatment of the pending FM translator applications. In particular, we invite comment on whether section 5(3) limits the Commission's authority to waive its cut-off rules in order to give priority to a later-filed LPFM application over a pending FM translator application. Section 5(3) refers specifically to ''stations,'' not to ''applications.'' If section 5(3) is interpreted to apply only to stations, the Commission would be able to defer action on any pending FM translator applications that it determines must make way for LPFM licensing opportunities and then process those applications later.

18. On the other hand, a number of factors argue in favor of interpreting section 5(3) to prohibit cut-off rule waivers in this context. Under current Commission rules, stations in these two services are ''co-equal'' in this licensing context in one principal way. Specifically, under the Commission's so-called ''cut-off'' rules, a prior filed application in one service ''cuts off'' a subsequently-filed application in the other service. This exact issue, characterized as ''LPFM–FM Protection Priorities'' in the *Third Report and Order,* has been a central point of dispute between LPFM and translator proponents since the imposition of the translator processing freeze in 2005. Moreover, the Commission and parties to this proceeding have used substantially identical language to explain their conflicting policy positions. For example, the Commission

noted in 2007 that ''[t]he *Third Report and Order* does not reach a conclusion on the *'co-equal' status* between *LPFM stations* and *FM translator stations.* Under the Rules for these services, a first-filed LPFM or FM translator application must be protected by all subsequently filed LPFM and FM translator applications.'' Given that the cut-off rules are a principal characteristic of the two services' co-equal status and that ''stations'' and ''applications'' were used interchangeably in the Commission proceeding before the LCRA was adopted, it seems reasonable to assume that Congress intended the same meaning when it used the term ''station'' in the LCRA. If so interpreted, the Commission would lack authority to adopt a processing policy which includes the dismissal of prior-filed translator applications in conflict with subsequently filed LPFM applications. Alternatively, does section 5(3) merely require that the Commission not favor either service in developing translator and LPFM new station licensing rules? If this alternative interpretation is adopted, what criteria are relevant in assessing whether such rules maintain a ''co-equal'' status between the services, especially when the current technical licensing rules, which provide substantially greater opportunities for future translator licensing in many markets, are taken into account? We seek comment on these alternative interpretations of section 5(3) and their impact on the processing of the pending translator applications.

B. Proposed FM Translator Application Processing Plan

19. Given our tentative conclusion that the ten-application cap is not a viable means of balancing the competing goals of introducing new FM translator service and preserving LPFM spectrum availability, we must consider alternative options in light of section 5's requirements and the data in the record, including Appendix A data.

(1) Open a Joint FM Translator/LPFM Application Window

20. Although not raised by any party to this proceeding, one option is to dismiss all pending FM translator applications from the 2003 window and make plans for a joint window for both LPFM and FM translator applications. In theory, such an option could advance the three section 5 mandates. However, we foresee overwhelming practical and legal difficulties in attempting to implement such a novel licensing process. If the translator and LPFM services were each limited to commercial operations, then section 309(j) of the Act would appear to require the use of efficient competitive bidding procedures. However, both commercial and NCE translator applications can be filed in a non-reserved FM band filing window. Accordingly, we would need to devise an alternate method for selecting among ''mixed'' groups of competing NCE and commercial applications.

21. The Commission has developed, not without difficulty, only one methodology to resolve such conflicts. This comparative scheme, which applies to the Auction 83 translator filings, requires the dismissal of NCE applications which remain in conflict with a commercial proposal. This methodology, which would resolve all commercial translator/LPFM conflicts in favor of the translator application, is clearly inconsistent with the cross-service balancing principle inherent in the section 5 directives. The fact that translator and LPFM stations can provide fundamentally different types of radio service adds additional complexities to the task of crafting a comparative standard. Thus, not only would it be extremely difficult to develop such a selection method that fits within section 5's framework as to both services, but any method chosen would likely be subject to extensive, time-consuming challenges. Accordingly, we tentatively conclude that we should not pursue this option with respect to the next window or subsequent windows. Instead, we propose to focus on processing the pending FM translator applications in an alternate manner that is consistent with the LCRA. We seek comment on this tentative conclusion.

(2) Establish a Priority for Future LPFM Applications

22. Some parties have urged the Commission not to dismiss any translator applications immediately, and to defer consideration of all translator applications until after the next LPFM window. Only those translator applications in conflict with LPFM filings would ultimately be dismissed under this approach. However, for the reasons stated above, we may implement this approach only if we conclude that section 5(3) does not bar the Commission from waiving § 73.807(d). We seek comment on the lawfulness of this licensing procedure. This approach also would necessarily delay further the processing of translator applications, filed in the 2003 window and now frozen for six years, until after the close of the next LPFM window. It is also possible that this approach would increase the disparity between the number of LPFM and translator licenses in larger markets where spectrum exists for both services and where the number of pending translator applications is likely to substantially outnumber LPFM licensing opportunities. We seek comment on whether such a licensing outcome is consistent with sections 5(1) and (2). We also request that commenters who favor this approach address its impact on the timing of future translator and LPFM licensing.

(3) Adopt a Market-Specific Translator Application Dismissal Processing Policy

23. Given the competing goals and constraints described above, we tentatively conclude that a market-specific, spectrum availability-based translator application dismissal policy would most faithfully implement section 5. This approach would ensure LPFM licensing opportunities in spectrum-limited markets while also ensuring the immediate licensing of translator stations in communities in which ample spectrum remains for both services, including many major markets. It is axiomatic that community groups and niche audiences are more plentiful in larger, more densely populated markets and, therefore, that there is a need for greater numbers of LPFM stations in such markets. Moreover, we think that it is important that our translator processing policy, to the extent possible, ensure that there is sufficient spectrum to establish a robust, dynamic and permanent LPFM service in larger markets. In this regard, we believe that the NCE FM service, the radio service most similar to the LPFM service, provides one measure of the relative needs of communities for LPFM service and a point of reference for setting LPFM licensing availability goals. Both economics and Commission requirements support the notion that if a radio station exists, it is meeting the needs of its listeners. Establishing an LPFM service floor which would limit the scale of potential LPFM licensing levels to a small fraction of the number of licensed NCE FM stations in a market would appear to be inconsistent with section 5(2)'s requirement to consider local community needs for LPFM service in licensing new FM translators, especially when the limited ability of LPFM station signals to reach audiences is taken into account.

24. We seek comment on the following ''LPFM Channel Floors'' which are intended to address these concerns and satisfy these licensing goals. We also seek comment on whether a market-tier approach is a

reasonable means for effectuating both section 5(1) and 5(2) directives. In proposing these channel floors, we are principally guided by the number of top 150-market NCE FM full power stations, the service that is most comparable to the LPFM service. In most cases, the number of NCE FM stations exceeds, frequently by a wide margin, the proposed market-specific LPFM channel floors. We note that the number of licensed FM translator stations and pending translator applications are each significantly greater than these proposed floors in most markets. In proposing these floors, we recognize that we have no assurance that these identified channels will result in LPFM station licensing. The identified channels are, to some extent, theoretical markers. The Commission will not know until the LPFM window whether interested applicants exist at the locations where LPFM channels are available. Moreover, these channels are at risk every day from full power FM station modification filings. Finally, we are mindful of the fact that the next LPFM window may provide the last best opportunity to create a vital and sustainable community radio service in major metropolitan areas. Given the very limited licensing opportunities that the Bureau has identified in a number of major markets and the far more restrictive technical rules for LPFM station licensing, we tentatively conclude that these floors are essential to the development of the LPFM service in spectrum-limited markets, as intended by the LCRA. We seek comment on this tentative conclusion.

- Markets 1–20: 8 LPFM Channels
- Markets 21–50: 7 LPFM Channels
- Markets 51–100: 6 LPFM Channels
- Markets 101–150 and, in addition, smaller markets where more than 4 translator applications are pending: 5 LPFM Channels

25. To ensure that licenses are available in all markets, we propose to dismiss all pending applications for new FM translators in markets in which the number of available LPFM channels, as set forth in the Bureau study, are below these channel floors. In calculating ''available'' LPFM channels, we have included both the identified vacant channels and those channels currently licensed to LPFM stations which are authorized to operate at locations within the thirty-minute latitude by thirty-minute longitude grid for each studied market. We propose to process all pending applications for new translators in markets in which the number of available LPFM channels meets or exceeds the applicable LPFM channel floor.

26. We also seek comment on whether we should impose restrictions on the translator settlement process in the ''process all'' markets to ensure that engineering solutions to resolve application conflicts do not reduce the number of channels available for LPFM stations in these markets. Restricting applicants from amending their applications to specify adjacent channels and/or different transmitter locations may be necessary to safeguard the available LPFM channels identified in Appendix A. As set forth therein, the Bureau's channel availability analysis incorporates the proposed channels and locations of pending translator applications. The translator settlement process, however, allows mutually exclusive applicants to settle by amending their applications to propose first-, second- and third-adjacent channels and different transmitter locations. If unchecked, that process could significantly impact spectrum availability for future LPFM stations, precluding LPFM licensing opportunities on channels identified as available in the Bureau's analysis. To ensure our ability to carry out the statutory mandate through the LPFM channel floor proposal or whatever approach we ultimately adopt, we propose to restrict applicants from amending applications to specify adjacent channels and/or different transmitter locations. We seek comment on this processing policy and alternative approaches that would advance section 5 goals.

27. We tentatively conclude that a three-pronged licensing process would promote section 5 goals. Under this approach, immediately following the resolution of the matters at issue in this *Third Further Notice* the Commission would resume the processing of those translator applications where there remains sufficient spectrum for LPFM based on the channel floors proposed above, *i.e.,* only at locations at which translator licensing will not undermine the section 5(1) directive to ensure future LPFM licensing opportunities. Following the adoption of rules implementing the other provisions of the LCRA, the Commission would open an LPFM-only window. Thereafter, following the substantial completion of LPFM application processing, the Commission would open a translator-only window. Under this approach, the Commission could immediately resume the processing of the thousands of translator applications which propose service in markets where ample spectrum remains for both services. Thus, it appears that this approach, if adopted, would provide the most expeditious path to expanded translator and LPFM station licensing and would permit the opening of an LPFM window by the summer of 2012. In this regard, we request that any commenter who proposes an alternative licensing approach to explain how such approach would better implement section 5 and to address the timing, resource and legal issues that any such approach would pose.

28. The foregoing section 5 analysis, LPFM spectrum availability analysis, and proposed translator application processing plan rely heavily on Arbitron market definitions. In this regard we note that the DC Circuit has upheld the Commission's broad authority to define ''community'' differently in different contexts. We believe that Arbitron market-based assessments as used herein are reasonable for purposes of implementing section 5 of the LCRA. A more granular approach would appear to be extremely burdensome and unworkable. Given the fact that the demand for LPFM licenses at particular locations and the availability of transmitter sites near such locations are unknowable prior to the opening of a window, a market-based analysis would appear to provide a reasonable ''global'' assessment of LPFM spectrum availability in particular areas. We seek comment on this issue and alternative definitions to implement the section 5 directives. In particular, we seek comment on whether defining the section 5(2) term ''local community'' in terms of markets is reasonable and whether it is appropriate to use the same definition for LPFM and translator purposes.

29. Finally, we find that certain temporary restrictions on the modification of translator stations authorized out of the Auction No. 83 filings are necessary to preserve LPFM licensing opportunities in identified spectrum-limited markets. We are concerned that translator modifications during the pendency of the rulemaking could undermine the statutory mandate to ensure future LPFM licensing opportunities in these markets. Accordingly, we direct the Bureau to suspend the processing of any translator modification application that proposes a transmitter site for the first time within any market which has fewer LPFM channels available than the proposed channel floor. We propose to dismiss any such application should the Commission adopt the market by market licensing approach proposed in this *Third Further Notice.* We seek comment on this proposal. We also impose an immediate freeze on the filing of

translator ''move-in'' modification applications and direct the Bureau to dismiss any such application filed after the adoption of this *Third Further Notice.* This freeze shall continue until the close of the upcoming LPFM filing window. This processing freeze will not apply to any translator modification application which proposes to move its transmitter site from one location to another within the same spectrum-limited market.

C. Prevention of Trafficking in Translator Station Construction Permits and Licenses

30. Having tentatively concluded that the Commission must process the remaining translator applications differently, we must consider whether a market-specific spectrum-based dismissal policy is sufficient to safeguard the integrity of the translator licensing process. The *Third Report and Order* raised concerns about the integrity of our translator licensing procedures. We focused on the skewed applicant filing behavior in Auction No. 83. Based on our analysis of the then-pending applications, we found that 80 percent of the 861 filers held ten or fewer proposals. In contrast, the top 15 filers held one-half of the 13,377 applications. We also noted that several applicants had engaged in the active marketing and sale of hundreds of translator construction permits, including efforts by RAM to assign more than one-half of the 1,046 construction permits it had been awarded from the 2003 window filings. The Commission concluded ''that our assumption that our competitive bidding procedures would deter speculative filings has proven to be unfounded in the Auction No. 83 context.'' The ten-application cap was intended, in part, to address these concerns.

31. We tentatively conclude that our proposed translator application processing policy would not be sufficient to deter speculative licensing conduct because we face essentially identical licensing concerns with the remaining translator filings. RAM alone holds 1,563 of the remaining 6,475 applications. Each of the top 20 applicants continues to hold more than 20 applications and, cumulatively, more than one-half of all applications. In contrast, the vast majority of applicants continue to hold only a few applications. For example, 501 of the 646 (78%) remaining applicants hold five or fewer applications. Similar filing imbalances occur in particular markets and regions. One applicant holds 25 of the 27 translator applications proposing locations within 20 kilometers of Houston's center city coordinates and 75 applications in Texas. Two applicants hold 66 of the 74 applications proposing service to the New York City market.

32. A number of factors may create an environment which promotes the acquisition of translator authorizations solely for the purpose of selling them. It is likely that a substantial portion of the remaining grants will be made pursuant to our settlement, that is, non-auction, procedures. Translator construction permits may be sold on a ''for profit'' basis. Permittees are not required to construct or operate newly authorized facilities. Absent translator licensing rule changes, it appears that limiting the number of permits that any applicant receives from the processing of the remaining applications is the only effective tool to deter speculative activity. We tentatively conclude that nothing in the LCRA limits the Commission's ability to address the potential for licensing abuses by any applicant in Auction No. 83. We seek comment on this issue. We also seek comment on processing policies to deter the potential for speculative abuses among the remaining translator applicants. For example, we seek comment on whether to establish an application cap for the applications that would remain pending in non-spectrum limited markets and unrated markets. Would a cap of 50 or 75 applications in a window force high filers to concentrate on those proposals and markets where they have *bona fide* service aspirations? In addition or alternatively, should applicants be limited to one or a few applications in any particular market? A limitation of this sort could limit substantially the opportunity to warehouse and traffic in translator authorizations while promoting diversity goals. We also seek comment on alternative approaches to protect against abuses in the translator licensing process.

D. Restrictions on the Use of FM Translators to Rebroadcast the Signals of AM Stations

33. In 2009, the Commission authorized the use of FM translators with licenses or permits in effect as of May 1, 2009, to rebroadcast the signal of a local AM station. The limitation of cross-service translator usage to already-authorized FM translators was adopted with the intention of preserving opportunities for future LPFM licensing. Two parties filed petitions for partial reconsideration of this aspect of the *2009 Translator Order.* Both petitions argue that the limitation of cross-service translators to already-authorized translators does not serve the public interest and is unfair to both AM stations and FM translator applicants. These petitions remain pending in MB Docket No. 07–172.

34. As a result of the likely significant impact of the LCRA on the processing of the translator applications, we believe it is also appropriate to consider whether to remove this limit on cross-service translators with respect to the pending FM translator applications. Notwithstanding our decision to defer other LCRA implementation issues, we conclude that it is appropriate to address this issue now. The authorization of AM rebroadcasting in 2009, long after the filing of the pending applications, created an enormous new demand for FM translators, leading to numerous application modification waiver requests and other filings. We believe that resolving this issue before processing of the pending translator applications will align FM translator licensing outcomes more closely with demand by enabling applicants to take the rebroadcasting option into account in the translator settlement and licensing processes, thereby advancing the goals of section 5(2). Elimination of the date limitation at least with respect to the pending translator applications would appear consistent with the other actions which the Commission must take to ensure LPFM licensing opportunities, the same goal that the going-forward AM/FM translator rebroadcasting exclusion was intended to achieve. In addition, the new AM/FM translator service rule has proven to be a very successful deregulatory policy. Approximately 500 AM stations currently use FM translators, providing hundreds of these stations with their first nighttime authority and the opportunity to operate viably at night. Anecdotal reports from many AM licensees repeatedly emphasize their vastly increased ability to cover local community, governmental and school events, and, generally, to better serve the needs of their communities.

35. Accordingly, we request comments on the issue of whether cross-service translators should remain limited to those authorized as of May 1, 2009 or whether the limit should be extended to include those applications which were on file as of May 1, 2009. Specifically, would the proposed changes in the FM translator application processing rules provide sufficient future LPFM application opportunities to support such a revision in the limitation on cross-service translators? Would the proposed changes in the FM translator application processing rules accomplish more effectively the goals

that the Commission sought to accomplish with the original application cap and the limitation on cross-service translators? Should the Commission modify this exclusion to enable translator and AM station licensees to better meet the needs of their communities? We seek comment on these issues.

Initial Paperwork Reduction Act of 1995 Analysis

36. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Initial Regulatory Flexibility Analysis

37. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA'') the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Notice of Proposed Rulemaking.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice of Proposed Rulemaking (''NPRM'')* provided in paragraph 39. The Commission will send a copy of this entire *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA''). In addition, the *NPRM* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

38. *Need for, and Objectives of, the Proposed Rules.* This rulemaking proceeding is initiated to seek comment on how the enactment of section 5 of the LCRA impacts the procedures previously adopted to process the approximately 6,500 applications which remain from the 2003 FM translator window. The Commission previously established a processing cap of ten pending short-form applications per applicant from FM translator Auction No. 83. The *NPRM* tentatively concludes that this cap is inconsistent with the LCRA licensing criteria. The *NPRM* concludes that it is important that the translator processing policy to be adopted will ensure that there is sufficient spectrum to establish a robust, dynamic and permanent LPFM service in larger markets. It tentatively concludes that a market-specific, spectrum availability-based translator application dismissal policy most faithfully implements section 5 of the LCRA. Specifically, the *NPRM* proposes to dismiss all pending applications for new FM translators in markets in which the number of available LPFM channels, as set forth in a Bureau study, are below these channel floors. The item notes that this approach would both ensure additional spectrum for LPFM stations in markets in which it is most limited while also ensuring the immediate licensing of translator stations in communities in which ample spectrum remains for both services, including many major markets.

39. The *NPRM* also seeks comment on whether the Commission should modify certain recently adopted FM translator service rule changes as a result of the enactment of the LCRA. Specifically, the *NPRM* seeks comment on the issue of whether cross-service translators should remain limited to those authorized as of May 1, 2009.

40. *Legal Basis.* The authority for this proposed rulemaking is contained in sections 1, 2, 4(i), 303, 307, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 307, and 309(j).

41. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term ''small entity'' as encompassing the terms ''small business,'' ''small organization,'' and ''small governmental entity.'' In addition, the term ''small Business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA'').

42. *Radio Broadcasting.* The proposed policies could apply to radio broadcast licensees, and potential licensees of radio service. The SBA defines a radio broadcast station as a small business if such station has no more than $7 million in annual receipts. Business concerns included in this industry are those primarily engaged in broadcasting aural programs by radio to the public. According to Commission staff review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of January 31, 2011, about 10,820 (97 percent) of 11,100 commercial radio stations) have revenues of $7 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

43. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

44. *FM translator stations and low power FM stations.* The proposed policies could affect licensees of FM translator and booster stations and low power FM (LPFM) stations, as well as to potential licensees in these radio services. The same SBA definition that applies to radio broadcast licensees would apply to these stations. The SBA defines a radio broadcast station as a small business if such station has no more than $7 million in annual receipts. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. Currently, there are approximately 6131 licensed FM translator stations and 860 licensed LPFM stations. In addition, there are approximately 646 applicants with pending applications filed in the 2003 translator filing window. Given the nature of these services, we will presume that all of these licensees and applicants qualify as small entities under the SBA definition.

45. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The *NPRM* provides for no changes in the reporting, recordkeeping and other compliance requirements for FM translator or LPFM licensees or applicants.

46. *Steps Taken to Minimize Significant Impact on Small Entities,*

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

47. The *NPRM* proposes to establish a market-specific, spectrum availability-based approach to the processing of remaining translator applications. As discussed in more detail below, alternatives considered included dismissal of all pending translator applications and the opening of a joint LPFM/translator window, or the deferral of translator application processing until the close of the next LPFM application filing window.

48. *Joint Window.* One option considered was to dismiss all pending FM translator applications from the 2003 window and make plans for a joint window for both LPFM and FM translator applications. In theory, such an option could advance the three section 5 mandates. However, the *NPRM* concludes that there would be overwhelming practical and legal difficulties in attempting to implement such a novel licensing process. Specifically, the *NPRM* notes that an alternate method for selecting among ''mixed'' groups of competing NCE and commercial applications would need to be devised, and concludes that it would be extremely difficult to develop such a selection method that fits within section 5's framework as to both services, and that any method chosen would likely be subject to extensive, time-consuming challenges.

49. *LPFM Priority.* Another option considered was to defer consideration of all translator applications until after the next LPFM window. Only those translator applications in conflict with LPFM filings would ultimately be dismissed under this approach. The *NPRM* questions the lawfulness of this licensing procedure, and also concludes that this approach would necessarily delay further the processing of translator applications, filed in the 2003 window and now frozen for six years, until after the close of the next LPFM window. It further notes that this approach would increase the disparity between the number of LPFM and translator licenses in larger markets where spectrum exists for both services and where the number of pending translator applications is likely to substantially outnumber LPFM licensing opportunities.

50. We do not believe that either of these approaches would have offered any significant benefits to small entities than the proposed market-based processing policy. Moreover, as discussed above, the market-based approach ensures additional spectrum for LPFM stations in markets in which it is most limited while also ensuring the immediate licensing of translator stations in communities in which ample spectrum remains for both services, including many major markets. Both of these outcomes benefit small entities. However, we are open to comments that might propose alternatives to any of the approaches considered above.

51. *Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals.* None.

Ordering Clauses

52. Accordingly, *it is ordered,* pursuant to the authority contained in sections 1, 2, 4(i), 303, 307, and 309(j) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 307, and 309(j), that this *Notice of Proposed Rulemaking is adopted.*

53. *It is further ordered* that no application to modify the facilities of an authorized FM translator to move its transmitter site for the first time into a market with fewer LPFM channels available than the service floor for that market proposed herein, as set forth in Appendix A, shall be accepted for filing until the close of the upcoming LPFM filing window proposed for summer 2012.

54. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, and shall cause it to be published in the **Federal Register**.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011–19171 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 110718394–1392–01]

RIN 0648–BB09

Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates

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

ACTION: Notice of Availability; Request for Comments.

SUMMARY: Pursuant to the regulations governing the subsistence taking of northern fur seals, this document summarizes the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2008 to 2010 and proposes annual estimates of fur seal subsistence needs for 2011 through 2013 on the Pribilof Islands, Alaska. NMFS solicits public comments on the proposed estimates.

DATES: Written comments must be received at the address or fax number by August 29, 2011.

ADDRESSES: Send comments to Kaja Brix, Assistant Regional Administrator, Protected Resource Division, Alaska Region, NMFS, *Attn:* Ellen Sebastian. You may submit comments, identified by ''RIN 0648–BB09'' by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov;*

Mail: Kaja Brix, Assistant Regional Administrator, Protected Resource Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802;

Hand Delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK;

Fax: 907–586–7557, *Attention:* Ellen Sebastian.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) file formats to be accepted.

FOR FURTHER INFORMATION CONTACT: Michael Williams, (907) 271–5006, e-mail *Michael.Williams@noaa.gov;* Kaja Brix, (907) 586–7835, e-mail *Kaja.Brix@noaa.gov;* or Shannon Bettridge, (301) 427–8402, e-mail *Shannon.Bettridge@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

An Environmental Impact Statement is available on the Internet at the following address: *http://alaskafisheries.noaa.gov/protectedresources/seals/fur/eis/final0505.pdf.*

Background

The subsistence harvest from the depleted stock of northern fur seals (*Callorhinus ursinus*), on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216, subpart F. The purpose of these regulations, published under the authority of the Fur Seal Act (FSA), 16 U.S.C. 1151, *et seq.,* and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, *et seq.,* is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof residents, while restricting taking by sex, age, and season for herd conservation. To further minimize negative effects on the Pribilof Islands' fur seal population, the harvest has been limited to a 47-day season (June 23 to August 8).

Pursuant to the regulations governing the taking of fur seals for subsistence purposes, NMFS must publish a summary of the fur seal harvest for the previous three-year period and an estimate of the number of seals expected to be taken in the subsequent three-year period to meet the subsistence needs of the Aleut residents of the Pribilof Islands. Beginning in 2000, the ranges of estimated annual northern fur seal subsistence harvests have been discussed with each tribal government as part of the co-management relationship and agreement. Accurately predicting the annual subsistence needs of the Pribilof communities has been one of practical and social difficulties; the process to develop estimates of the number of fur seals required to meet subsistence needs has resulted in acceptance of the different ranges since those first established in 1986. The current upper harvest take limit of 2,500 juvenile male fur seals has been accepted every year since 1997. The lower harvest take limit of 1,945 provides a degree of flexibility the communities feel comfortable with regarding changes and unanticipated needs within the community and the environment.

There are several factors and conditions that affect both the subsistence harvest of northern fur seals and the number of fur seals required to meet subsistence needs. The variability of the harvest occurs for many reasons. Weather conditions and availability of animals varies annually. The availability of wage earning jobs reduces the time available for community members to harvest fur seals and hunt other subsistence resources. Thus, individual community members may be unavailable to harvest fur seals during the season in certain years or have more financial resources to hunt other marine mammals in subsequent years or seasons. Several specific seasonal employment opportunities may interfere with community members' ability to harvest fur seals under the current regulations. The current timing of the northern fur seal subsistence harvest season overlaps with the local halibut fishing season, and many of the community members who participate in the harvest are also fishermen. In addition, crab fishery rationalization and a renewal of the crab harvest in the Pribilof region has provided local job opportunities that may extend into the spring hunting season for Steller sea lions. The level of Steller sea lion hunting success in the spring influences the need to take fur seals during the subsequent summer northern fur seal subsistence harvest season. Thus both Steller sea lions and northern fur seals combine to meet the subsistence needs of the local communities, with northern fur seals providing the more reliable resource of the two species, despite being available only during a 6-week harvest season.

The communities of St. Paul and St. George Islands rely on marine mammals as a major food source and a cornerstone of their culture. The harvest of juvenile male northern fur seals has occurred for well over two hundred years and the biological implications of this harvest are reasonably well understood. Subsistence harvests under the current regulations are a small fraction of the commercial harvests that occurred during the past hundred years.

Summary of Harvest Operations and Monitoring 2008 to 2010

The annual harvests were conducted in the established manner and employed the standard methods required under regulations at 50 CFR 216.72. NMFS personnel, a contract veterinarian, and tribal government staff monitored the harvest and communicated to further improve the efficiency of the annual harvest and full utilization of the animals taken. Annual northern fur seal harvest reports are received from the Tribal governments of both islands and from a contract veterinarian for St. Paul.

The reported annual male northern fur seal subsistence harvests for St. Paul for the years 2008, 2009 and 2010 were 328, 341, and 357, respectively (Zavadil 2008; Zavadil 2009; Zavadil *et al.* 2010), and for St. George for the years 2008, 2009 and 2010 were 170, 113, and 78, respectively (Lekanof 2008, Lekanof 2009; Merculief 2010). The number of male northern fur seals harvested on St. Paul Island from 1986 to 2010 ranged from 269 to 1704, and the number harvested on St. George Island from 1986 to 2010 ranged from 78 to 319 seals. The average number of male seals harvested during the past ten years on St. Paul and St. George Islands, respectively, has been 441 seals (range: 269 to 646) and 156 seals (range: 78 to 212) (Table 1).

The annual upper harvest take level is 2,500 juvenile male fur seals to satisfy the subsistence requirements for both St. Paul and St. George. The current abundance estimate is about 676,416 fur seals, and the potential biological removal (PBR) level is estimated at about 14,543 animals. The upper harvest take level is significantly lower than the PBR level, and the actual harvest has not reached the lower take level of 1,945 in the past decade. The fur seal stock is designated as depleted and has been declining recently in the Pribilof Islands. The mortality from the subsistence harvest is in addition to other sources of known human-caused mortality, which are described in the annual stock assessment, and include such things as bycatch in commercial fisheries, entanglement in derelict fishing gear, illegal shooting and accidental death during research. The estimates of all sources of known human-caused mortality do not reach PBR.

The accidental harvest of young female fur seals has occurred intermittently during the male harvest. The regulations call for termination of the annual harvest on August 8 to reduce the probability of the accidental killing of females to the lowest level practicable. Thirty-two females on St. Paul and four females on St. George have been accidentally killed since 1987. The average accidental killing of females on St. Paul and St. George Islands during the last 10 years is two and less than one, respectively.

Under section 119 of the Marine Mammal Protection Act, cooperative agreements were signed with St. Paul in

2000 and with St. George in 2001 for the cooperative management of subsistence uses of northern fur seals and Steller sea lions. The processes defined in the cooperative agreements have facilitated a more collaborative working relationship between NMFS and Tribal authorities. This has led to more coordinated efforts by the Tribal governments of both islands to promote full utilization of inedible seal parts for traditional arts, crafts, and other uses permitted under regulations at 50 CFR 216.73. The result has been an expanded use of these materials by the Aleut residents.

Table 1. Subsistence Harvest Levels of Juvenile Male Northern Fur Seals on the Pribilof Islands, 1986-2010

Year	Estimated Take Range		Actual Harvest	
	St. Paul	St. George	St. Paul	St. George
1986	2,400-8,000	800-1,800	1,299	124
1987	1,600-2,400	533-1,800	1,704	92
1988	1,800-2,200	600-740	1,145	113
1989	1,600-1,800	533-600	1,340	181
1990	1,145-1,800	181-500	1,077	164
1991	1,145-1,800	181-500	1,644	281
1992	1,645-2,000	281-500	1,480	194
1993	1,645-2,000	281-500	1,518	319
1994	1,645-2,000	281-500	1,615	161
1995	1,645-2,000	281-500	1,263	259
1996	1,645-2,000	281-500	1,588	232
1997	1,645-2,000	300-500	1,153	227
1998	1,645-2,000	300-500	1,297	256
1999	1,645-2,000	300-500	1,000	193
2000	1,645-2,000	300-500	754	121
2001	1,645-2,000	300-500	595	184
2002	1,645-2,000	300-500	646	202
2003	1,645-2,000	300-500	522	132
2004	1,645-2,000	300-500	493	123
2005	1,645-2,000	300-500	466	139
2006	1,645-2,000	300-500	396	212
2007	1,645-2,000	300-500	269	206
2008	1,645-2,000	300-500	328	170
2009	1,645-2,000	300-500	341	113
2010	1,645-2,000	300-500	357	78

Estimate of Subsistence Need for the Period 2011 to 2013

The projected subsistence harvest estimates are given as a range, the lower end of which may be exceeded if NMFS is given notice and the Assistant Administrator for Fisheries, NOAA, determines that the annual subsistence needs of the Pribilof Aleuts have not been satisfied. Conversely, the harvest can be terminated before the lower end of the range is reached if the annual subsistence needs of the Pribilof residents are determined to have been met or the harvest has been conducted in a wasteful manner.

For the 3-year period, 2011 to 2013, NMFS proposes no change to the past and current ranges of 1,645–2,000 juvenile male fur seals for St. Paul Island and 300–500 juvenile male fur seals for St. George Island. Retaining these levels will provide adequate flexibility and enable adaptive management of the subsistence harvest through the co-management process within the regulations. NMFS seeks public comments on these proposed estimates.

As described earlier in this document, if the Aleut residents of either island reach the lower end of this annual harvest estimate and have unmet subsistence needs and no indication of waste, they may request an additional number of seals to be harvested prior to August 8 up to the upper limit of the respective harvest take level. The residents of St. George and St. Paul Islands may substantiate any additional need for seals by submitting in writing the information upon which they base their decision that subsistence needs are unfulfilled. The regulations at 50 CFR

216.72(e)(1) and (3) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the estimated harvest level is reached. The suspension is to last no more than 48 hours, followed either by a finding that the subsistence needs have been met or by a revised estimate of the number of seals necessary to satisfy the Aleuts' subsistence needs.

The harvest of fur seals is anticipated to be non-wasteful and in compliance with the regulations specified at 50 CFR 216.72 which detail the restrictions and harvest methods. NMFS will continue to monitor the harvest on St. Paul Island and St. George Islands during 2011, 2012, and 2013.

Classification

National Environmental Policy Act

NMFS prepared an Environmental Impact Statement (EIS) evaluating the impacts on the human environment of the subsistence harvest of northern fur seals. The Final EIS, which is available on the NMFS Web site (see Electronic Access) was subjected to public review (69 FR 53915, September 3, 2004), and the comments were incorporated into the final EIS (May 2005).

Executive Order 12866 and Regulatory Flexibility Act

This proposed action has been determined not to be a significant rule under Executive Order (E.O.) 12866. The proposed actions are not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed action would not have a significant economic impact on a substantial number of small entities. The harvest of northern fur seals on the Pribilof Islands, Alaska, is for subsistence purposes only. This action directly regulates the subsistence harvest of northern fur seals by Alaska Natives in the communities of St. Paul and St. George. The estimates of subsistence need are derived based on historic harvest levels and direct consultation with the Tribal Governments from each community. NMFS has identified two small entities that may be affected by this action—the communities of St. Paul and St. George, both of which have populations less than 500.

Estimate of Economic Impacts on Small Entities

This action would have no adverse economic impact and may provide a net benefit for the communities of St. Paul and St. George. The estimated ranges of the subsistence needs are unlikely to restrict the number of animals taken by subsistence hunters. NMFS compared historic harvest levels on each island to the upper and lower ends of the range of the estimated subsistence need. The total annual harvests on each island has never exceeded the upper end of the proposed subsistence need ranges, and has only exceeded the lower end of the proposed ranges in 1991 on both islands and in 1993 on St. George. The regulated entities will not experience any change from the status quo since the proposed ranges are the same ranges that have been used since 1997.

The subsistence harvest of fur seals provides a local, affordable source of fresh and frozen meat to for the communities' consumption. Fresh meat is unavailable on either St. Paul or St. George. Subsistence hunting and fishing are the primary means by which the communities meet their dietary need. No other fish and wildlife species are predictably available to replace fresh fur seal meat. Replacement of the frozen fur seal meat with livestock meat that is shipped to the islands is extremely expensive and only available when air and barge service can deliver. In addition marine mammals such as fur seals are the preferred meat resource for Aleuts and other coastal Alaska Natives.

Explanation of the Criteria Used To Evaluate Whether the Action Would Impose ''Significant Economic Impacts''

The proposed action will not place any small entities at a disadvantage, relative to large entities or impose significant economic impacts on any small entities.

The criteria recommended to determine the significance of the economic impacts of the action are profitability and disproportionality. The guidance states that ''the concept of profitability may not be appropriate for a non-profit small organization or a small government jurisdiction''. Based on this guidance NMFS believes disproportionality is the appropriate standard given the regulated entities are small government jurisdictions. No large entities are allowed to harvest northern fur seals; therefore the regulatory allowance for the small entities on St. Paul and St. George to harvest northern fur seals does not create a disproportionate impact that would disadvantage them.

Explanation of the Criteria Used To Evaluate Whether the Action Would Impose Impacts on a ''Substantial Number'' of Small Entities

The action would not impose adverse economic impacts on any small entities. Because this action will not impose impacts on any small entities, it will not impose impacts on a substantial number of small entities. This action will have beneficial economic impacts on the directly regulated Alaska Native residents of St. Paul and St. George, and will not have an adverse economic impact on any small entities. Therefore, a regulatory flexibility analysis is not required and none was prepared.

Paperwork Reduction Act

This proposed action does not require the collection of information.

Executive Order 13132—Federalism

This proposed action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence needs were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13175—Native Consultation

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the National Marine Fisheries Service in matters affecting Tribal interests. Section 161 of Public Law 108–100 (188 Stat. 452) as amended by section 518 of Public Law 108–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has contacted the Tribal governments of St. Paul and St. George Islands and their respective local Native corporations (Tanadgusix and Tanaq) about setting the next three years

harvest estimates and received their input.

Dated: July 25, 2011.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2011–19255 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 76, No. 146

Friday, July 29, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Virginia Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Virginia Resource Advisory Committee will meet in Roanoke, Virginia. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with title II of the Act. The meeting is open to the public. The purpose of the meeting is for the committee to select and prioritize projects for funding.

DATES: The meeting will be held August 12, 2011 from 9 a.m. to 12 noon, and 1 p.m. to 5 p.m. An alternate or additional meeting is planned for August 18, 2011 at 6 p.m., only if needed.

ADDRESSES: The meeting will be held at the George Washington and Jefferson National Forests Supervisor's Office conference room at 5162 Valleypointe Parkway, Roanoke, Virginia 24019. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at George Washington and Jefferson National Forest Supervisor's Office. Please call ahead to 540–265–5100 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Michael Williams, Public Affairs Specialist, Supervisor's Office, 540–265–5173, *mrwilliams04@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accomodation for access to the facility or procedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 8, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Michael Williams, Public Affairs, George Washington and Jefferson National Forests Supervisor's Office at 5162 Valleypointe Parkway, Roanoke, Virginia 24019; or by e-mail to *mrwilliams04@fs.fed.us,* or via facsimile to 540–265–5145.

Dated: July 22, 2011.

Kenneth G. Landgraf,

Acting Forest Supervisor.

[FR Doc. 2011–19201 Filed 7–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Prince of Wales Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Prince of Wales Resource Advisory Committee will meet in Craig, Alaska, August 18, 2011. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss potential projects under the Secure Rural Schools and Community Self-Determination Act of 2008.

DATES: The meeting will be held August 18, 2011 from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Craig Ranger District 504 9th Street Craig, Alaska 99921. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Craig Ranger District. Please call ahead to 907–826–3271 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Rebecca Sakraida, RAC Coordinator, 907–826–1601 or e-mail *rsakraida@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accomodation for access to the facility or procedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Review of projects submitted for review. An agenda will be available at the Secure Rural Schools Web site, *https://www.notes.fs.fed.us/wo/secure_rural_schools.nsf.* Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Prince of Wales RAC c/o District Ranger P.O. Box 500 Craig, AK 99921, or by e-mail to *rsakraida@fs.fed.us,* or via facsimile to 907–826–2972.

Dated: July 20, 2011.

Maeve L. Taylor,

Acting District Ranger.

[FR Doc. 2011–19203 Filed 7–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ozark-Ouachita National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ozark-Ouachita RAC will meet in Waldron, Arkansas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review Title II project proposals from eligible counties in Arkansas.

DATES: The meeting will be held August 30, 2011, beginning at 3 p.m. and ending at approximately 6 p.m. Alternate meeting dates are September 13, 20, and 22 in case of postponement due to weather, lack of committee quorum, or other unforeseen circumstances. Please call 501–321–5202 prior to August 30th to determine postponement.

ADDRESSES: The meeting will be held at the Scott County Courthouse, 100 W. First Street, Waldron, AR 71958. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 100 Reserve Street, Hot Springs, Arkansas. Please call ahead (501–321–5318) to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Caroline Mitchell, Committee Coordinator, USDA, Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902. (501–321–5318). Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or procedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The following business will be conducted: review proposals, review completed proposals. Complete agenda available at *https://fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 28, 2011, to be scheduled on the agenda. Send written comments and requests to Ouachita National Forest, P.O. Box 1270, Hot Springs, AR 71902, or by e-mail to *carolinemitchell@fs.fed.us,* or via facsimile to 501–321–5399. A summary of the meeting will be posted at *https://fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf* within 21 days of the meeting.

July 25, 2011.

Bill Pell,

Designated Federal Official.

[FR Doc. 2011–19202 Filed 7–28–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise a Currently 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 intent of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the National Childhood Injury and Occupational Injury Survey of Farm Operators. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by September 27, 2011 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0235, by any of the following methods:

- *E-mail: omboffficer@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:* National Childhood Injury and Occupational Injury Survey of Farm Operators.

OMB Control Number: 0535–0235.

Expiration Date of Approval: 12/31/2011.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The National Childhood Injury and Adult Occupational Injury Survey of Farm Operators is designed to: (1) Provide estimates of childhood nonfatal injury incidence and description of injury occurring to children less than 20 years of age who reside, work, or visit farms and (2) describe the occupational injury experience of farm operators. These surveys are being conducted as part of a cooperative agreement between the Center for Disease Control (CDC) and the National Agricultural Statistics Service (NASS). In 2012 the survey will concentrate on farm operations that have access to all terrain vehicles (ATVs) and any injuries associated with these vehicles. In 2013 NASS will not be conducting an injury survey, since we will be concentrating on the Census of Agriculture survey (OMB # 0535–0226). In 2014 NASS plans to conduct the General Adult and Child Injury Survey.

DATA COLLECTION FOR THE THREE YEAR APPROVAL PERIOD

Survey targeted group	Reference year	Survey year	Sample size
Farm Operators with ATVs	2011	2012	25,000
No Survey Conducted this Year	2012	2013	0
General Adult and Child Injury Survey	2013	2014	100,000

Data will be collected by telephone from all 50 states. Questions will relate to on farm injuries occurring during the reference calendar year. These data will update and enhance existing data series used by the National Institute of Occupational Safety and Health (NIOSH) to: (1) Establish a measure of the number and rate of childhood injuries associated with farming operations and study the specific types of injuries sustained and (2) describe the scope and magnitude of occupational injuries associated with farming operations. The collection combines the youth and occupational injury studies to reduce the number of contacts on the targeted farm population. Reports will be generated and information disseminated to all interested parties concerning the findings from this study.

Authority: 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, 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 Public Law 104–13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget 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),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Reporting burden for this collection of information is estimated to average 12 minutes per response; screen-outs will be allowed early in the interview process if no injuries were incurred in the reference year. Burden is based on a minimum response rate of 80%. NASS will be utilizing several pieces of publicity and informational materials to encourage respondents to participate in this important survey.

Respondents: Farm Operators.

Estimated Annual Number of Respondents: 42,000.

Estimated Total Annual Burden on Respondents: 12,800 hours.

Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *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, including 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, on July 8, 2011.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. 2011–19179 Filed 7–28–11; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2008 Panel of the Survey of Income & Program Participation, Wave 11 Topical Module.

OMB Control Number: 0607–0944.

Form Number(s): SIPP–281105(L) Director's Letter; SIPP/CAPI Automated Instrument; SIPP28003 Reminder Card.

Type of Request: Revision of a currently approved collection.

Burden Hours: 143,303.

Number of Respondents: 94,500.

Average Hours Per Response: 30 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct a topical module during the Wave 11 interview for the 2008 Panel of the Survey of Income and Program Participation (SIPP). The core SIPP and reinterview instruments were cleared under Authorization No. 0607–0944.

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single and unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983, permitting levels of economic well-being and changes in these levels to be measured over time.

The survey is molded around a central ''core'' of labor force and income questions that remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs, such as estimating eligibility for government programs, examining pension and health care coverage, and analyzing individual net worth. These supplemental questions are included with the core and are referred to as ''topical modules.''

The topical module planned for the 2008 Panel Wave 11 is Retirement and Pension Plan Coverage. This topical module was previously conducted in the SIPP 2004 Panel Wave 7 and the SIPP 2008 Panel Wave 3 instruments. Wave 11 interviews will be conducted from January 1, 2012 through April 30, 2012.

No topical modules are planned for Waves 12 through 17 of the 2008 Panel. We plan to continue fielding the core and reinterview instruments through

April 2014, which is the last rotation of Wave 17. Consequently, we do not anticipate any future OMB submissions for the 2008 Panel.

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years, with each panel having durations of approximately 3 to 6 years. The 2008 Panel is scheduled for approximately 6 years and includes seventeen waves which began September 1, 2008. All household members 15 years old or over are interviewed using regular proxy-respondent rules. They are interviewed a total of thirteen times (thirteen waves), at 4-month intervals, making the SIPP a longitudinal survey. Sample people (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit (PSU) will be followed and interviewed at their new address. Individuals 15 years old or over who enter the household after Wave 1 will be interviewed; however, if these people move, they are not followed unless they happen to move along with a Wave 1 sample individual.

The OMB has established an Interagency Advisory Committee to provide guidance for the content and procedures for the SIPP. Interagency subcommittees were set up to recommend specific areas of inquiries for supplemental questions.

The Census Bureau developed the 2008 Panel Wave 9 topical modules through consultation with the SIPP OMB Interagency Subcommittee. The questions for the topical modules address major policy and program concerns as stated by this subcommittee and the SIPP Interagency Advisory Committee.

Data provided by the SIPP are being used by economic policymakers, the Congress, state and local governments, and federal agencies that administer social welfare or transfer payment programs, such as the Department of Health and Human Services and the Department of Agriculture.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: July 26, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–19257 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–07–P?≤

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Public Employment & Payroll Forms

AGENCY: U.S. Census Bureau.

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 September 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 Erika Becker-Medina, Chief, Employment and Benefit Statistics Branch, Governments Division, U.S. Census Bureau, Washington, DC 20233–6800 (301–763–1494 or *Erika.H.Becker.Medina@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the forms necessary to conduct the public employment and payroll program which consists of an annual collection of information and a quinquennial collection in a census environment in years ending in ''2'' or ''7''. During the upcoming two years, we intend to conduct the 2012 Census of Governments: Employment Component and the 2013 Annual Survey of Public Employment & Payroll.

Under Title 13, Section 161 & 182, of the United States Code, the Secretary of Commerce is authorized to conduct the public employment and payroll program, which collects and disseminates data by function for full-time and part-time employees, payroll, and number of part-time hours worked. The number and content of the data items collected are the same in the annual and census cycles.

The burden hours we will request are based on the expected 2012 Census of Governments: Employment Component mail-out of 99,935 forms and the expected 2013 Annual Survey of Public Employment & Payroll mail out of 17,209 forms.

The state and local government statistics produced cover national, state, and local aggregates on various functions with comparative detail for individual governments for the pay period that includes March 12. The public employment and payroll program provides the only comprehensive count of employees and payrolls of state and local governments. Government employees constitute approximately one-sixth of the entire U.S. workforce and their salaries are a major source of personal income.

The Census Bureau provides this employment data to the Bureau of Economic Analysis for constructing the functional payrolls in the public sector of the Gross Domestic Product; payroll being the single largest component of current operations. The public employment and payroll program has increasingly been used as the base for reimbursable programs conducted by the Census Bureau for other Federal agencies such as: (1) The government portion of the Medical Expenditure Panel Survey commissioned by the Agency for Healthcare Research and Quality to provide timely, comprehensive information about health care use and costs in the United States, and (2) the Criminal Justice Expenditure and Employment Survey, sponsored by the Bureau of Justice Statistics (BJS), which provides criminal justice expenditure and employment data on spending and personnel levels.

Statistics are produced as data files in electronic formats. The program has disseminated comprehensive and comparable governmental statistics since 1940.

The users of the public employment and payroll program data include Federal agencies, state and local governments and related organizations, public interest groups, and many business, market, and private research organizations.

II. Method of Collection

Approximately 104,000 state agencies, county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems designated for the 2012 Census of Governments: Employment Component will either be sent an appropriate form or their data will be collected through a data sharing arrangement between the Census Bureau and the government unit. Approximately 20,800 government units will be sent a form or collected through data sharing arrangements for the 2013 Annual Survey of Public Employment & Payroll.

The Census Bureau developed central collection agreements with state and large local government officials to collect the data from their dependent agencies and report to us as a central respondent. These arrangements eliminate the need for a mail canvass of approximately 3,480 state agencies and 620 school systems. The agreements reduce burden by greatly reducing the number of people who have to complete a form as the data are pulled from a centralized source instead of from multiple sources. Currently, the Census Bureau has central collection agreements with forty-five states, four local school district governments, and ten local governments. The Census Bureau continues to expand the conversion of paper submissions into electronic formats, for both individual units and central collection units.

All form types can be completed on the Internet. For the 2007 Census, approximately 24 percent responded using the Census Bureau's Web site. For the 2010 annual survey, approximately 45 percent of the governments sampled responded using the Census Bureau's Web site.

III. Data

OMB Control Number: 0607–0452.

Form Number: E–1, E–2, E–3, E–4, E–5, E–6, E–7, E–9.

Type of Review: Regular submission.

Affected Public: State, Tribal, or local governments.

Estimated Number of Respondents: 58,572.

Estimated Time per Response: The average for all forms is 49 minutes.

Estimated Total Annual Burden Hours: 47,904.

Estimated Total Annual Cost: $1,161,709.

Respondents Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 161 & 182.

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: July 26, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–19284 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on August 11, 2011, 10 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening Remarks by the Chairman and Introduction.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than August 4, 2011.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via e-mail.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 27, 2010, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters the premature disclosure of which would likely frustrate the implementation of a proposed 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. 2 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: July 21, 2011.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2011–19230 Filed 7–28–11; 8:45 am]

BILLING CODE 3510&–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–803]

Polyethylene Terephthalate Film, Sheet and Strip From the United Arab Emirates: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: Andrew Huston or Jun Jack Zhao,

Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4261 and (202) 482–1396, respectively.

Background

On December 28, 2010, the Department of Commerce (the Department) published the initiation of an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet and strip from the United Arab Emirates (UAE) for the period November 01, 2009, through October 31, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 75 FR 81565, 81570 (December 28, 2010). This review covers one producer and/or exporter of the subject merchandise to the United States: JBF RAK LLC (JBF).

Extension of Time Limit for the Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and section 351.213(h)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 245 days after the last day of the anniversary month of the order or suspension agreement for which the administrative review was requested, and final results of the review within 120 days after the date on which the notice of the preliminary results is published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within the aforementioned specified time limits, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations allow the Department to extend the 245-day period to 365 days and to extend the 120-day period to 180 days.

The Department requires additional time to evaluate the questionnaire responses from JBF in order to conduct a thorough analysis of all information on the record, in particular the claimed sample sales and JBF's product matching issues. Therefore, the Department finds that it is not practicable to complete the preliminary results of this review by the original deadline of August 2, 2011, and is extending the deadline for completion of the preliminary results of this administrative review from 245 days to 365 days. The revised deadline for the preliminary results of this administrative review is now no later than November 30, 2011.

This notice is issued and published pursuant to sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: July 21, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–19266 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–830]

Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico.

SUMMARY: On November 3, 2010, the Department of Commerce (Department) published its *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Carbon and Certain Alloy Steel Wire Rod from Mexico,* 75 FR 67685 (November 3, 2010) (*Initiation and Preliminary Results Notice*) and preliminarily determined that ArcelorMittal las Truchas, S.A. de C.V. (AMLT) operated as the same business entity as Siderurgica lazaro Cardenas las Truchas S.A. de C.V. (Sicartsa) for purposes of determining antidumping duty liability. We received comments from interested parties. Based on our analysis, we are now affirming our preliminary results.

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: John Conniff, Office of AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–1009.

Background

On November 3, 2010, the Department published its *Initiation and Preliminary Results Notice.* On April 29, 2011, the Department received case briefs from Nucor Corporation (Nucor) and Gerdau Ameristeel US Inc. and Evraz Rocky Mountain Steel (petitioners) and AMLT. On May 6, 2011, the Department received a rebuttal brief from Nucor and on May 9, 2011, AMLT filed a rebuttal brief as well. Petitioners did not submit a rebuttal brief.

Scope of the Order

The merchandise subject to this order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.,* products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35

microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis—that is, the direction of rolling—of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003. *See Notice of Final Result of Changed Circumstances Review of the Antidumping Duty and Countervailing Duty Orders, and Intent To Revoke Orders in Part,* 68 FR 64079 (November 12, 2003).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications; end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to this order are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3092, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7213.99.0090, 7227.20.0000, 7227.90.6010, and 7227.90.6080 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this changed circumstances review are addressed in the *Issues and Decision Memorandum,* which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the *Issues and Decision Memorandum,* is attached to this notice as an Appendix. The *Issues and Decision Memorandum* is available in the Central Records Unit, room 7046, of the main Commerce building. In addition, a complete version of the *Issues and Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the *Issues and Decision Memorandum* are identical in content.

Final Results of Changed Circumstances Review

In accordance with 19 CFR 351.221(c)(3)(i), we have determined that AMLT is the successor-in-interest to Sicartsa and should be accorded the same antidumping treatment as Sicartsa. We will instruct U.S. Customs and Border Protection that a cash deposit rate of 1.26 percent will be effective for AMLT's shipments of the subject merchandise entered, or withdraw from warehouse, for consumption on or after the date of publication of these final results. For the cash deposit rate calculated for Sicartsa, see *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod From Mexico,* 71 FR 27989 (May 15, 2006).

Notification

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the 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 sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Dated: July 22, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

APPENDIX

Comment 1	Date of Sicartsa's Acquisition
Comment 2	Management
Comment 3	Supplier Base
Comment 4	Customer Base
Comment 5	Production Facilities

[FR Doc. 2011–19292 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–806, A–570–815]

Sulfanilic Acid From India and the People's Republic of China; Final Results of Third Expedited Sunset Reviews of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 1, 2011, the Department of Commerce (''the Department'') initiated the third sunset reviews of the antidumping duty orders on sulfanilic acid from India and the People's Republic of China (''the PRC''), pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive responses filed on behalf of domestic interested parties, as well as lack of response from respondent interested parties, the Department conducted expedited (120-day) sunset reviews. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the Final

Results of Reviews section of this notice.

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Eugene Degnan, Office 8, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–4243 or (202) 482–0414.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2011, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders on sulfanilic acid from India and the PRC.[1] On April 7, 2011, the Department received a notice of intent to participate from Nation Ford Chemical Company (''NFC''), the domestic interested party, within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. NFC claimed interested party status under section 771(9)(C) of the Act, as a producer of the domestic-like product in the United States. On April 29, 2011, the Department received a complete substantive response from NFC within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to these proceedings. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct expedited reviews of these orders.

Scope of the Orders

Imports covered by the antidumping duty orders are all grades of sulfanilic acid, which include technical (or crude) sulfanilic acid, refined (or purified) sulfanilic acid and sodium salt of sulfanilic acid.

Sulfanilic acid is a synthetic organic chemical produced from the direct sulfonation of aniline with sulfuric acid. Sulfanilic acid is used as a raw material in the production of optical brighteners, food colors, specialty dyes, and concrete additives. The principal differences between the grades are the undesirable quantities of residual aniline and alkali insoluble materials present in the sulfanilic acid. All grades are available as dry, free flowing powders.

Technical sulfanilic acid, classifiable under the subheading 2921.42.22 of the Harmonized Tariff Schedule (''HTS''), contains 96 percent minimum sulfanilic acid, 1.0 percent maximum aniline, and 1.0 percent maximum alkali insoluble materials. Refined sulfanilic acid, also classifiable under the subheading 2921.42.22 of the HTS, contains 98 percent minimum sulfanilic acid, 0.5 percent maximum aniline and 0.25 percent maximum alkali insoluble materials.

Sodium salt (sodium sulfanilate), classifiable under the HTS subheading 2921.42.90, is a powder, granular or crystalline material which contains 75 percent minimum equivalent sulfanilic acid, 0.5 percent maximum aniline based on the equivalent sulfanilic acid content, and 0.25 percent maximum alkali insoluble materials based on the equivalent sulfanilic acid content.

Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the ''Issues and Decision Memorandum'' (''Decision Memorandum'') from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in room 7046 of the main Commerce building.

In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html,* under the heading ''July 2011.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on sulfanilic acid from India and the PRC would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted average margin (percent)
India:	
All Indian Manufacturers and Exporters	[2] 114.80
The PRC	.....
China National Chemicals I&E Corporation, Hebei Branch	19.14
PRC–Wide Entity	85.20

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or 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 which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 25, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–19308 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Notice of Initiation of Antidumping Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

[1] *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 18163 (April 1, 2011) (''*Initiation Notice*'').

[2] The Department published its final affirmative determination of sales at less than fair value with respect to imports of sulfanilic acid from India on January 8, 1993. *See Final Determination of Sales at Less Than Fair Value: Sulfanilic Acid from India,* 58 FR 3251 (January 8, 1993). In this determination, the Department published a weighted-average dumping margin for all manufacturers/producers/exporters of 114.80 percent. However, consistent with section 772(d)(1)(D) of the Act, which prohibits assessing antidumping duties on the portion of the margin attributable to an export subsidy, we established an estimated antidumping duty deposit rate of 71.09 percent for duty deposit purposes. The Department issued its antidumping duty order on sulfanilic acid from India on March 2, 1993. *See Notice of Antidumping Duty Order; Sulfanilic Acid from India,* 58 FR 12025 (March 2, 1993). The Department has not conducted an administrative review of this order since its imposition.

SUMMARY: Pursuant to section 751(b) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.216 and 351.221(c)(3), the Department of Commerce (the ''Department'') is initiating a changed circumstances review of the antidumping duty order on stainless steel plate in coils (''SSPC'') from Belgium with respect to Aperam Stainless Belgium N.V. (''Aperam'').

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: George McMahon or Stephanie Moore, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–1167 and (202) 482–3692, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1999, the Department published in the **Federal Register** an antidumping duty order on stainless steel plate in coils from Belgium; this order was amended in 2003.[1] On June 28, 2011, the Department initiated an administrative review of Aperam Stainless Belgium N.V. (''Aperam''), covering the period of review (''POR''), May 1, 2010, through April 30, 2011. Aperam's request for review stated that Aperam was formerly known as ArcelorMittal Stainless Belgium N.V. (''AMSB''). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part* 76 FR 37781 (June 28, 2011).[2]

With respect to AMSB, the Department determined in a prior administrative review covering the POR of May 1, 2007, to April 30, 2008, that AMSB was the successor-in-interest to Ugine & ALZ Belgium, after the merger of Arcelor S.A. with Mittal Steel, N.V.[3] Aperam is the only respondent in the current administrative review.

On June 14, 2011, Aperam requested that the Department initiate and conduct an expedited changed circumstances review to determine that, for purposes of the antidumping law, Aperam is the successor-in-interest to AMSB. *See* June 14, 2011, letter from Aperam to the Department.

Scope of the Order

The product covered by this order is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.,* cold-rolled, polished, *etc.*) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this order are the following: (1) Plate not in coils; (2) Plate that is not annealed or otherwise heat treated and pickled or otherwise descaled; (3) Sheet and strip; and (4) Flat bars.

The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to these orders is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review,* 57 FR 20460, 20462 (May 13, 1992) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 70 FR 22847 (May 3, 2005) (*Plate from Romania*), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Cut-to-Length Carbon Steel Plate from Romania* 70 FR 35624 (June 21, 2005).

Aperam requested that the Department conduct an expedited changed circumstances review; however, the Department requires additional information before issuing preliminary results for this review. For example, Aperam provided statements regarding its material and service providers and its customer base, but did not include lists that would allow the Department to compare such information before and after the reported spin-off and name change. As a result, the Department intends to obtain such information prior to issuing preliminary results in this changed circumstances review.

Based on the information Aperam submitted in its June 14, 2011, letter, we find that we have received information which shows changed circumstances sufficient to warrant initiation of such a

[1] *See Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 64 FR 27756 (May 21, 1999); *Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 11520 (March 11, 2003); *Notice of Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 16117 (April 2, 2003); *Notice of Correction to the Amended Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan,* 68 FR 20114 (April 24, 2003) (''*Antidumping Order*'').

[2] On August 16, 2010, the Court of International Trade (''CIT'') issued an Order modifying a preliminary injunction in effect for entries of subject merchandise under the *Antidumping Order. See* Order Granting Plaintiff's Motion to Modify the Preliminary Injunction Order, *ArcelorMittal Stainless Belgium N.V.* v *United States,* No. 08–434 (CIT August 16, 2010). In this Order, the CIT modified its January 16, 2009, Order granting Plaintiff's Motion for Preliminary Injunction, and enjoined liquidation of any unliquidated entries of SSPC from Belgium which contain merchandise that (i) Is 4.75 mm or more in nominal thickness, but which has an actual thickness of less than 4.75 mm, and within the dimensional tolerances specified under ASTM standard A480/480M, (ii) was produced and exported by Ugine & ALZ Belgium N.V., any of its predecessors-in-interest, as determined by the Department, and/or any of its successors-in-interest, as determined by the Department, and (iii) is otherwise subject to the antidumping duty order and countervailing duty order on certain SSPC from Belgium. *See* 64 FR 27756 (May 21, 1999) and 64 FR 25288 (May 11, 1999), respectively. Because AMSB is the successor-in-interest to Ugine & ALZ Belgium N.V., the modified preliminary injunction may enjoin certain entries subject to this review.

[3] *See* Memorandum from G. McMahon to J. Terpstra, titled ''Successor-in-Interest Analysis for AMS Belgium,'' dated June 1, 2009; *see also Stainless Steel Plate in Coils from Belgium: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 27097 (June 8, 2009).

review in order to determine whether Aperam is the successor-in-interest to AMSB. *See* 19 CFR 351.216(d). Therefore, in accordance with the above-referenced statute and regulation, the Department is initiating a changed circumstances review.

We intend to issue the preliminary results of the changed circumstances review within 90 days from the issuance of the instant initiation notice. We intend to issue the final results of the changed circumstances review within 270 days from the date of initiation of this changed circumstance review, or within 45 days if all parties to the proceeding agree to the outcome of the review. *See* 19 CFR 351.216(e). During the course of this review, we will not change the cash deposit requirements for the subject merchandise. The cash deposit rate will be altered, if warranted, pursuant only to the final results of the changed circumstances review.

This notice of initiation is in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

Dated: July 22, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–19305 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway: Preliminary Results of Full Third Sunset Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 3, 2011, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty (AD) order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 89 (January 3, 2011) (*Sunset Initiation*). On the basis of adequate substantive responses submitted by domestic and respondent interested parties, the Department determined to conduct a full sunset review of this AD order pursuant to section 751(c) of the Act and 19 CFR 351.218(e)(2). As a result of our analysis, the Department preliminarily finds that revocation of the AD order would likely lead to continuation or recurrence of a dumping.

DATES: *Effective Date:* July 29, 2011.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; *telephone:* (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2011, the Department initiated the third sunset review of the AD order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Act. *See Sunset Initiation.* On January 13, 2011, the Government of Norway (GON), Norwegian Seafood Federation (NSF), and Aquaculture Division of the Norwegian Seafood Association (ADNSA) (collectively, the respondents), filed letters of appearance in the review.[1] On January 18, 2011, Phoenix Salmon U.S., Inc. (Phoenix Salmon), a domestic producer of fresh and chilled Atlantic salmon, filed a notice of intent to participate in the review.[2]

On January 21, 2011, NSF and ADNSA supplemented their letter of appearance by submitting to the Department a list of their members. On February 2, 2011, the Department received a substantive response from Phoenix Salmon and a joint substantive response from the respondents within the deadline specified in 19 CFR 351.218(d)(3)(i). The Department received rebuttal comments from Phoenix Salmon and the GON on February 14, 2011. On February 25, 2011, the GON submitted a surrebuttal to Phoenix Salmon's rebuttal responding to the company's claims that NSF and ADNSA are not interested parties.

On March 3, 2011, Department officials met with Phoenix Salmon, who reiterated statements made in its submissions regarding the interested party status of NSF and ADNSA. *See* Memorandum to the File, through Melissa Skinner, Director, AD/CVD Operations, Office 3, from Kristen Johnson, Trade Analyst, AD/CVD Operations, Office 3, regarding ''Meeting with Counsel for the Domestic Interested Party'' (March 3, 2011). On March 4, 2011, the Department issued a letter to NSF and ADNSA requesting that each association identify their members that are producers or exporters of the subject merchandise. On March 11, 2011, NSF and ADNSA submitted annotated membership lists, which identify the members of each association that are producers or exporters of subject merchandise. On March 16, 2011, Phoenix Salmon submitted comments on the membership lists submitted by NSF and ADNSA.

On April 6, 2011, the Department issued its adequacy determination memorandum. The Department found that the domestic and respondent parties submitted adequate substantive responses and that NSF and ADNSA have standing as interested parties in this review. The Department, therefore, determined to conduct a full sunset review of this AD order. *See* Memorandum to Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Melissa Skinner, Director, Antidumping and Countervailing Duty Operations, Office 3, regarding ''Adequacy Determination: Third Sunset Reviews of the Antidumping and Countervailing Duty Orders on Fresh and Chilled Atlantic Salmon From Norway'' (April 6, 2011). On April 12, 2011, the Department extended the deadline for the preliminary and final results of this sunset review. *See Fresh and Chilled Atlantic Salmon From Norway: Extension of Time Limits for Preliminary and Final Results of Full Third Antidumping and Countervailing Duty Sunset Reviews,* 76 FR 20312 (April 12, 2011) (*Salmon Extension Notice*). The Department did not receive comments on the adequacy determination memorandum from any party to this review.

Scope of the Order

The product covered by the order is the species Atlantic salmon (Salmo Salar) marketed as specified herein; the order excludes all other species of salmon: Danube salmon, Chinook (also called ''king'' or ''quinnat''), Coho (''silver''), Sockeye (''redfish'' or ''blueback''), Humpback (''pink'') and Chum (''dog'').[3] Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on.

[1] These public documents and all other public documents and public versions of proprietary documents with regard to this third full sunset review are available on the public record located in the Department's Central Records Unit at room 7046 of the main Department of Commerce building.

[2] Phoenix Salmon claimed to be the successor to the two domestic producers who participated in the prior sunset review—Atlantic Salmon of Maine and Heritage Salmon Company, Inc.

[3] On August 5, 2009, the Department made a final scope ruling determining that whole salmon steaks are within the scope of the order. *See Notice of Scope Rulings,* 75 FR 14138 (March 24, 2010).

The subject merchandise is typically packed in fresh-water ice (''chilled''). Excluded from the subject merchandise are fillets, steaks and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0302.12.0003 and 0302.12.0004.

The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum for the Preliminary Results of Full Third Sunset Review of the Antidumping Duty Order on Fresh and Chilled Atlantic Salmon from Norway (Decision Memorandum) from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this preliminary notice, which is hereby adopted by this notice. The issues discussed in the accompanying Decision Memorandum include the likelihood of the continuation of dumping, the magnitude of the margin likely to prevail, and good cause to examine other factors. Parties can find a complete discussion of all issues raised in this full sunset review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit. In addition, a complete version of the Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/ia.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Preliminary Results of Review

We preliminarily determine that revocation of the antidumping duty order on fresh and chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

Manufacturer/exporter	Margin (percent)
Salmonor A/S	18.39
Sea Star International A/S	24.61
Skaarfish Mowi A/S	15.65
Fremstad Group A/S	21.51
Domstein and Co.	31.81
Saga A/S	26.55
Chr. Bjelland Seafood A/S	19.96
Hallvard Leroy A/S	31.81
All Others	23.80

Interested parties may submit case briefs no later than 50 days after the date of publication of the preliminary results of this full sunset review, in accordance with 19 CFR 351.309(c)(1)(i). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than the five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d).

A hearing, if requested, will be held two days after the date the rebuttal briefs are due. The Department will issue a notice of final results of this full sunset review, which will include the results of its analysis of issues raised in any such comments, no later than November 29, 2011. *See Salmon Extension Notice.*

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 22, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–19301 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA599

Marine Mammals; File No. 16094

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game, Juneau, AK, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written, telefaxed, or e-mail comments must be received on or before August 29, 2011.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16094 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–724.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Joselyd Garcia-Reyes, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a five-year permit to study harbor seals (*Phoca vitulina*) throughout their range in Alaska, including Southeast Alaska, Gulf of Alaska and Bering Sea. The overall objective is to provide a greater understanding of the proximate and ultimate factors that regulate their abundance, which is required to develop effective management and conservation strategies. Research activities and the maximum number of animals taken per year (n) per activity include: aerial surveys for population census and radio tracking (n = 180,000); incidental disturbance during capture activities (n = 7,000); ground surveys for photo-identification, counts and behavioral observations (n = 10,000); vessel approaches of animals equipped with telemetry equipment (n = 50); vessel surveys for radio tracking and incidental disturbance associated with approaching animals equipped with telemetry equipment (n = 7,000); and capture by entanglement in a net in the water or by hoop net or dip net on land

(n = 350). Captured animals would be restrained (chemical or physical); weighed and measured; have biological samples collected (blood, milk (lactating females), blubber, muscle, skin, muscle, hair, mucus membrane swabs, stomach lavage, tooth and vibrissae); be administered deuterated water; have measurement of blubber via ultrasound; be marked with flipper identification tags; and have internal (PIT tags) or external scientific instruments attached. Tissue samples would be collected from subsistence harvested animals and other mortalities and some samples would be exported to Canada for analysis. The applicant requests authorization for incidental research-related mortalities (4 per year, not to exceed 10 over five years) and permission to humanely euthanize animals seriously injured during research (2 per year, not to exceed 5 over five years). The applicant also requests incidental harassment (5 per year) and accidental mortality (3 per year) of harbor porpoises (*Phocoena phocoena*) during seal capture activities.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 22, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–19259 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA606

Second Notice of Intent To Prepare an Environmental Impact Statement Related to Two Joint State and Tribal Resource Management Plans for Puget Sound Hatchery Programs and Reopening of Comment Period

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

ACTION: Notice of intent; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice announces that NMFS intends to obtain additional information necessary to prepare an Environmental Impact Statement (EIS) for two hatchery Resource Management Plans and appended Hatchery and Genetic Management Plans (HGMPs) jointly proposed by the Washington Department of Fish and Wildlife and the Puget Sound Treaty Tribes (referred to as the co-managers) for NMFS's evaluation and determination under the Endangered Species Act for threatened salmon. The previous notice of intent to prepare an EIS was published on May 12, 2004. NMFS is now reopening the comment period for 30 days.

NMFS provides this notice to remind other agencies and the public of its plans to analyze effects related to the action, and obtain information that may not have been available in 2004 pertinent to the scope of issues to include in the EIS.

DATES: Written or electronic comments from all interested parties are encouraged and must be received no later than 5 p.m. Pacific Daylight Time August 29, 2011.

ADDRESSES: All comments concerning the preparation of the EIS and NEPA process should be addressed to Steve Leider, NMFS, 510 Desmond Drive, SE., Suite 103, Lacey, WA 98503; facsimile (360) 753–9517. Comments may be submitted by e-mail to the following address: *PShatcheryEIS.nwr@noaa.gov* with a subject line containing the document identifier ''Puget Sound Hatcheries EIS Second Comment Period.''

FOR FURTHER INFORMATION CONTACT: Steve Leider, NMFS, by phone at (360) 753–4650. In addition, further information regarding this project, including the co-managers' Resource Management Plans and associated HGMPs may be found at *http://www.nwr.noaa.gov/Salmon-Harvest-Hatcheries/Hatcheries/Puget-Sound-Hatchery.cfm.*

SUPPLEMENTARY INFORMATION:

Listed Species in This Notice

The following species and Evolutionarily Significant Units (ESUs) and Distinct Population Segments (DPSs) under NMFS jurisdiction would potentially be affected by the proposed action:

Puget Sound Chinook salmon (*Oncorhynchus tshawytscha*).

Hood Canal summer-run chum salmon (*O. keta*).

Stellar sea lion (*Eumetopias jubatus*).

Species listed since 2004:

Puget Sound steelhead (*O. mykiss*).

Southern Resident killer whale (*Orcinus orca*).

Puget Sound/Georgia Basin bocaccio (*Sebastes paucispinis*).

Puget Sound/Georgia Basin yelloweye rockfish (*S. ruberrimus*).

Puget Sound/Georgia Basin canary rockfish (*S. pinniger*).

Green sturgeon (*Acipenser medirostris*).

Eulachon (*Thaleichthys pacificus*).

Listed species regulated by the United States Fish and Wildlife Service that may be affected by the proposed action include bull trout (*Salvelinus confluentus*), brown pelicans (*Pelecanus occidentalis*), marbled murrelet (*Brachyramphus marmoratus marmoratus*), and Northern spotted owls (*Strix occidentalis caurina*).

Background

On May 14, 2004 (69 FR 26363), NMFS announced its intent to prepare an EIS pursuant to NEPA (42 U.S.C. *et seq.*), and to conduct public scoping meetings related to the action. A 60-day public comment period was opened from May 12, 2004 to July 12, 2004, and public scoping meetings were held at four locations in June, 2004, including Mount Vernon, Seattle, Belfair, and Port Hadlock, WA. NMFS sought public input on the scope of the required NEPA analyses at that time, in addition to seeking comment for a range of reasonable alternatives and impacts to resources. Since the 2004 scoping period, NMFS has begun its analyses on the action, but due in part to the elapsed time since the first notice, NMFS is reopening the comment period on the EIS to ask the public for input on possible new information related to this action.

NEPA requires Federal agencies to conduct environmental analysis of the proposed actions to determine if the actions may affect the human environment. The co-managers' Resource Management Plans are the proposed framework through which they would jointly manage hatchery programs in Puget Sound, rearing steelhead and Chinook, coho, pink, sockeye, and chum salmon while meeting conservation requirements specified under the Endangered Species Act (ESA). NMFS's action of evaluating the co-managers Resource Management Plans for ESA compliance is a major Federal action subject to environmental review under NEPA. Therefore, NMFS is seeking additional public input on the

scope of the required NEPA analysis, including reasonable alternatives and the associated impacts of any alternatives.

The co-managers have jointly submitted to NMFS two Resource Management Plans for hatcheries in Puget Sound. One plan describes hatchery programs that produce Chinook salmon. The other plan describes hatchery programs producing other anadromous salmonid species. Appended to the overarching Resource Management Plans are individual HGMPs for each hatchery program. The HGMPs describe each hatchery program, including measures proposed by the co-managers to minimize risks of adversely affecting listed fish. Both plans consider potential effects on Puget Sound Chinook and steelhead, and Hood Canal summer-run chum. NMFS listed as threatened the two salmon species in March 1999 (64 FR 14308) and steelhead in May 2007 (72 FR 26722).

NMFS will perform an environmental review of the Resource Management Plans and prepare an EIS. From the 2004 internal and public scoping process, the EIS will consider potential impacts on listed and non-listed species and their habitats, water quality and quantity, wildlife and marine mammals, socioeconomics, tourism and recreation, environmental justice, cultural resources, human health, and cumulative impacts.

NMFS is rigorously exploring and objectively evaluating a full range of reasonable alternatives in the EIS, including the proposed action (evaluation of the co-managers' Resource Management Plans) and a no action alternative. Additional alternatives resulting from the 2004 internal and public scoping processes include the following: (1) A decrease in artificial production in selected programs that have a primary goal of augmenting fisheries, and (2) an increase in artificial production in selected programs that have a primary goal of augmenting fisheries, where additional hatchery capacity exists.

Request for Comments

Specific comments and suggestions are invited from all interested parties to ensure that the EIS considers the full range of issues and alternatives related to the proposed action. In particular, NMFS requests information that may have become available since 2004 that relates to: other possible alternatives; the direct, indirect, and cumulative impact that implementation of the proposed Resource Management Plans could have on endangered and threatened species and their communities and habitats; potential adaptive management and/or monitoring provisions; funding issues; baseline environmental conditions in Clallam, Island, King, Kitsap, Jefferson, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, and Whatcom Counties; other plans or projects that might be relevant to this proposed action; and potential methods to minimize and mitigate for impacts.

Written comments concerning the proposed action and the environmental review should be directed to NMFS as described above (see **ADDRESSES**). All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public. The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.,*) National Environmental Policy Act Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and policies and procedures of NMFS for compliance with those regulations.

Dated: July 26, 2011.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protective Resources, National Marine Fisheries Service.

[FR Doc. 2011–19262 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA608

Gulf of Mexico Fishery Management Council (Council); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting.

DATES: The meeting will be held August 15–19, 2011.

ADDRESSES: The meeting will be held at the Crowne Plaza Hotel, 6121 North IH–35, Austin, TX 78752; *telephone:* (512) 323–5466.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Bortone, Executive Director, Gulf of Mexico Fishery Management Council; *telephone:* (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Council

Thursday, August 18, 2011

9 a.m.—The Council meeting will begin with a Call to Order and Introductions.

9:10 a.m.–9:25 a.m.—The Council will have an Investiture Ceremony for New Members.

9:25 a.m. to–9:30 a.m.—The Council will review the agenda and approve the minutes.

9:30 a.m.–9:45 a.m.—The Council will receive a presentation titled ''Fisheries 101''.

9:45 a.m.–11:30 a.m.—The Council will review and discuss reports from the committee meetings as follows: Outreach and Education; Advisory Panel Selection; Joint Mackerel, Reef Fish and Red Drum; Artificial Reef; Data Collection; Budget/Personnel; and Administrative Policy.

12:30 p.m.–4:30 p.m.—The Council will receive public testimony on exempted fishing permits (EFPs), if any; Final Actions on Reef Fish Amendment 32, the Generic Annual Catch Limits/Accountability Measures Amendment and Joint Amendment 18 to the Coastal Migratory Pelagics Fishery Management Plan; Action 4 to the Comprehensive Ecosystem-Based Amendment 2; and a regulatory amendment to set total allowable catch and bag limits for red grouper; the Council will also hold an open public comment period regarding any other fishery issues of concern. People wishing to speak before the Council should complete a public comment card prior to the comment period.

4:30 p.m.–4:45 p.m.—The Council will review and discuss the Mackerel Committee Report.

Friday, August 19, 2011

8:30 a.m.–12 p.m.—The Council will review and discuss reports from the committee meetings as follows: Sustainable Fisheries/Ecosystem and Reef Fish.

12 p.m.–12:15 p.m.—Other Business items will follow.

12:15 p.m. to 12:30 p.m.—The Council will conduct their election of the new Chair and Vice Chair.

The Council will conclude its meeting at approximately 12:45 p.m.

Committees

Monday, August 15, 2011

9 a.m.–12 p.m.—New Council Member Orientation.

1:30 p.m.–2 p.m.—The Outreach and Education Committee will discuss recommendations.

2 p.m.–5 p.m.—Sustainable Fisheries/Ecosystem Committee will review and discuss the Ecosystem Scientific and Statistical committee report; receive a presentation on Allocation by Buzz Thompson; and discuss final action on the Generic Annual Catch Limits/Accountability Measures Amendment.

5 p.m.–5:15 p.m.—Closed Session—Full Council will meet to receive a litigation briefing.

Recess—

Tuesday, August 16, 2011

8:30 a.m.–12 noon and 1:30 p.m.–5 p.m.—Reef Fish Management Committee will meet to discuss final action on Regulatory Amendment for Red Grouper Total Allowable Catch & Bag Limit and Amendment 32—Gag Rebuilding & Gag Annual Catch limit; review a Draft Regulatory Amendment for Fall Red Snapper Season; receive a presentation on Red Snapper Economics by Wade Griffin; discuss a Draft of Amendment 35—Greater Amberjack; and review the Ad Hoc Red Snapper Individual Fishing Quota 5-Year Review and Commercial Reef Fish Individual Fishing Quota Advisory Panel Reports.

Recess—

Wednesday, August 17, 2011

8:30 a.m.–9 a.m.—Closed Session—The Advisory Panel Selection Committee/Full Council will meet to appoint an Ad Hoc Headboat Advisory Panel and to appoint retiring Council Members to Advisory Panels.

9 a.m.–9:30 a.m.—Closed Session—The Budget/Personnel Committee/Full Council will meet to discuss employment matters.

9:30 a.m.–10 a.m.—The Budget/Personnel Committee will review and discuss the Quarterly Budget.

10 a.m.–11 a.m.—The Mackerel Management Committee will discuss the final action on Amendment 18 to the coastal migratory Pelagics Fishery Management Plan.

11 a.m.–11:30 a.m.—The Joint Mackerel, Reef Fish and Red Drum Management Committees will review the proposed Rule Implementing the Aquaculture Fishery Management Plan.

1 p.m.–2 p.m.—The Artificial Reef Committee will receive a presentation from the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE); discuss Oil Rig Removals; Review and discuss the status of Artificial Reefs in Fishery Management.

2 p.m.–3 p.m.—The Data Collection Committee will receive a presentation on the I-Snapper Program; Discuss creating an Ad Hoc Advisory Panel to Collect Private Recreational Angler Data.

3 p.m.–3:30 p.m.—The Administrative Policy Committee will review and discuss the Council Strategic Plan; SEDAR Guidelines; and Ad Hoc Advisory Panel Membership.

Recess—

Immediately following the Committee Recess will be the Informal Question & Answer Session on Gulf of Mexico Fishery Management Issues.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date/time established in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: July 26, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–19253 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA605

Endangered Species; File No. 13330–01

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

ACTION: Issuance of permit modification.

SUMMARY: Notice is hereby given that NMFS Southeast Fisheries Center (SEFSC) (hereinafter ''Permit Holder''); 75 Virginia Beach Drive, Miami, FL 33149 [Responsible Party: Bonnie Ponwith, PhD], has been issued a permit modification to take smalltooth sawfish in Florida waters for purposes of scientific research.

ADDRESSES: The permit modification 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) 427–8401; fax (301) 713–0376; and
- Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Colette Cairns, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On March 17, 2011, notice was published in the **Federal Register** (76 FR 14650) that a scientific research permit modification to take smalltooth sawfish had been submitted by the above-named organization. The requested permit modification has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The primary objective of the permit modification will remain unchanged from the original permit: to collect data on the biology, distribution and abundance of the endangered smalltooth sawfish to facilitate recovery of the species. Sampling with the goal of taking 45 smalltooth sawfish per year is currently authorized by longline, gillnet, seine net, drum (set) lines, or rod and reel throughout Florida's coastal waters, but primarily in the region of the Florida coast from Naples to Key West,

encompassing the Ten Thousand Islands. All captured sawfish are also authorized to be handled, measured, tagged, sampled, and released alive. Tagging methods include rototags (fin dart tags, Passive Integrated Transponder (PIT) tags, acoustic tags (transmitters), Pop-Up Archival transmitting (PAT) tags, and Smart Position Only Transmitting (SPOT) tags. Sampling methods also include taking a small genetic tissue fin clip and blood sample. Additionally, dead sawfish acquired through strandings or through law enforcement confiscations are sampled for scientific purposes.

However, to increase tag retention and provide less invasive tagging techniques, the applicant has now been authorized to replace plastic rototags used to secure VEMCO acoustic transmitters with neoprene clasp tags; and nylon umbrella darts used to secure PAT tags will be replaced with dorsal fin harnesses. Additionally, SPOT tags will now be excluded as a tagging method. Better data collection using these modified tagging methods could provide increased insight into habitat usage pattern and accomplish actions items identified in the recovery plan for the species.

Issuance of this permit modification, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 26, 2011.

P. Michael Paine,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–19258 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA507

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Western Tropical Pacific Ocean, November to December, 2011

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the Scripps Institution of Oceanography (SIO) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a low-energy marine geophysical (*i.e.,* seismic) survey in the western tropical Pacific Ocean, November to December, 2011. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to SIO to incidentally harass, by Level B harassment only, 19 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than August 29, 2011.

ADDRESSES: Comments on the application should be addressed 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. The mailbox address for providing e-mail comments is *ITP.Goldstein@noaa.gov.* NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

The National Science Foundation (NSF) has prepared a draft ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Thompson* in the western tropical Pacific Ocean November–December 2011 (EA).'' The draft EA incorporates an ''Environmental Assessment of a Low-Energy Marine Geophysical Survey by the R/V *Thompson* in the Western Tropical Pacific Ocean, November–December 2011,'' prepared by LGL Ltd., Environmental Research Associates (LGL), on behalf of NSF and SIO, which is also available at the same Internet address. 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, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371 (a)(5)(D)) directs the Secretary of Commerce (Secretary) to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, 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, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental taking of small numbers of marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

NMFS received an application on June 14, 2011, from SIO for the taking by harassment, of marine mammals, incidental to conducting a low-energy marine seismic survey in the western tropical Pacific Ocean. SIO, a part of the University of California, in collaboration with University of Washington (UW), Woods Hole Oceanographic Institution (WHOI), Texas A&M University (TAMU), and Kutztown University, plans to conduct a magnetic and seismic study of the Hawaiian Jurassic crust onboard an oceanographic research vessel in the western tropical Pacific Ocean north of the Marshall Islands for approximately 32 days. The survey will use a pair of Generator Injector (GI) airguns each with a discharge volume of 105 cubic inches (in^3). SIO plans to conduct the proposed survey from approximately November 5 to December 17, 2011. The proposed seismic survey will be conducted partly in international waters and partly in the Exclusive Economic Zone (EEZ) of Wake Island (U.S.), and possibly in the EEZ of the Republic of the Marshall Islands.

SIO plans to use one source vessel, the R/V *Thomas G. Thompson* (*Thompson*) and a seismic airgun array to collect seismic reflection and refraction profiles from the Hawaiian Jurassic crust in the western tropical Pacific Ocean. In addition to the proposed operations of the seismic airgun array, SIO intends to operate a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) continuously throughout the survey.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause a short-term behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities and SIO has requested an authorization to take 19 species of marine mammals by Level B harassment. Take is not expected to result from the use of the MBES or SBP, for reasons discussed in this notice; nor is take expected to result from collision with the vessel because it is a single vessel moving at a relatively slow speed during seismic acquisition within the survey, for a relatively short period of time (approximately 39 days). It is likely that any marine mammal would be able to avoid the vessel.

Description of the Proposed Specified Activity

SIO's proposed seismic survey in the western tropical Pacific Ocean, as part of an integrated magnetic and seismic study of the Hawaiian Jurassic crust, will take place for approximately 32 days in November to December, 2011 (see Figure 1 of the IHA application). The proposed seismic survey will take place in water depths ranging from approximately 2,000 to 6,000 meters (m) (6,561.7 to 19,685 feet [ft]) and consist of approximately 1,600 kilometers (km) (863.9 nautical miles [nmi]) of transect lines in the study area. The survey will take place in the area 13° to 23° North, 158° to 172° East, just north of the Marshall Islands. The project is scheduled to occur from approximately November 5 to December 17, 2011. Some minor deviation from these dates is possible, depending on logistics and weather.

The goal of the proposed research is to define the global nature and significance of variations in intensity and direction of the Earth's magnetic field during the Jurassic time period (approximately 145 to 180 million years ago), which appears to have been a period of sustained low intensity and rapid directional changes or polarity reversals compared to other periods in Earth's magnetic field history. Access to Jurassic-aged crust with good magnetic signals is very limited, with the best continuous records in ocean crust, but only one area of the ocean floor has been measured to date: the western Pacific Japanese magnetic lineations. To properly assess the global significance of the variations and to eliminate local crustal and tectonic complications, it is necessary to measure Jurassic magnetic signals in a different area of the world. The proposed study will attempt to verify the unusual behavior of the Jurassic geomagnetic field and test whether it was behaving in a globally coherent way by conducting a near-bottom marine magnetic field survey of Pacific Hawaiian Jurassic crust located between Hawaii and Guam.

Widespread, younger, Cretaceous-aged (65 to 140 million years ago) volcanism overprinted much of the western Pacific, so it is important to know the extent of Cretaceous-aged volcanic crust. This will be assessed by carrying out a seismic reflection and refraction survey of the Hawaiian Jurassic crust. First, the autonomous underwater vehicle (AUV) *Sentry* and a simultaneously deployed deep-towed magnetometer system will acquire two parallel profiles of the near-bottom crustal magnetic field 10 km (5.4 nmi) apart and approximately 800 km (432 nmi) long. More information on the AUV *Sentry* is available at *http://www.whoi.edu/page.do?pid=38098.* Second, the seismic survey will be conducted using airguns, a hydrophone streamer, and sonobuoys directly over the same profile as the AUV magnetic survey.

The survey will involve one source vessel, the *Thompson.* For the seismic component of the research program, the *Thompson* will deploy an array of two low-energy Sercel Generator Injector (GI) airguns as an energy source (each with a discharge volume of 105 in^3) at a tow depth of 3 m (9.8 ft). The acoustic receiving system will consist of an 800 m (2,624.7 ft), 48 channel hydrophone streamer and directional, passive sonobuoys. Over the course of the seismic operations, 50 Ultra Electronics AN/SSQ–53D(3) directional, passive sonobuoys will be deployed from the vessel. The sonobuoys consist of a hydrophone, electronics, and a radio transmitter. As the airgun is towed along the survey lines, the hydrophone streamer and sonobuoys will receive the returning acoustic signals and transfer the data to the on-board processing system. The seismic signal is measured by the sonobuoy's hydrophone and transmitted by radio back to the source vessel. The sonobuoys are expendable, and after a pre-determined time (usually eight hours), they self-scuttle and sink to the ocean bottom.

The survey lines will be within the area enclosed by red lines in Figure 1 of the IHA application, but the exact locations of the survey lines will be determined during transit after observing the location of the appropriate magnetic lineation by surface-towed magnetometer. Magnetic and seismic data acquisition will alternate on a daily basis; seismic surveys will take place while the AUV used to collect magnetic data is on deck to recharge its batteries. In addition to the operations of the airgun array, a Kongsberg EM300 MBES and ODEC Bathy-2000 SBP will also be operated from the *Thompson* continuously throughout the cruise. There will be additional seismic operations associated with equipment testing, start-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In SIO's calculations, 25% has

been added for those contingency operations.

All planned geophysical data acquisition activities will be conducted by technicians provided by SIO, with on-board assistance by the scientists who have proposed the study. The Principal Investigators are Drs. Masako Tominaga, Maurice A. Tivey, Daniel Lizarralde of WHOI, William W. Sager of TAMU, and Adrienne Oakley of Kutztown University. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

Vessel Specifications

The *Thompson* is operated by the University of Washington under a charter agreement with the U.S. Office of Naval Research. The title of the vessel is held by the U.S. Navy. The *Thompson* will tow the two GI airgun array, as well as the hydrophone streamer, along predetermined lines.

The vessel has a length of 83.5 m (274 ft); a beam of 16 m (52.5 ft), and a full load draft of 5.8 m (19 ft). It is equipped with twin 360° azimuth stern thrusters each powered by a 3,000 horsepower (hp) DC motor and a water-jet bow thruster powered by a 1,600 hp DC motor. The motors are driven by up to three 1,500 kiloWatt (kW) and three 715 kW generators; normal operations use two 1,500 kW and one 750 kW generator, but this changes with ship speed, sea state, and other variables. An operations speed of 7.4 km/hour (hr) (4 knots [kt]) will be used during seismic acquisition. When not towing seismic survey gear, the *Thompson* cruises at 22 km/hr (12 kt) and has a maximum speed of 26.9 km/hr (14.5 kt). The *Thompson* has a range of 24,400 km (13,175 nmi) (the distance the vessel can travel without refueling).

The vessel will also serve as a platform for which vessel-based Protected Species Observers (PSOs) will watch for marine mammals before and during the proposed airgun operations.

Acoustic Source Specifications

Seismic Airguns

The *Thompson* will deploy and tow an array consisting of a pair of 45 to 105 in^3 Sercel GI airgun and a streamer containing hydrophones along predetermined lines. Seismic pulses will be emitted at intervals of five or ten seconds (s). At speeds of approximately 7.4 km/hr, the five to ten s spacing corresponds to shot intervals of approximately 10 to 20 m (32.8 to 65.6 ft).

The generator chamber of each GI airgun, the one responsible for introducing the sound pulse into the ocean, is either 45 in^3 or 105 in^3, depending on how it is configured. The injector chamber injects air into the previously-generated bubble to maintain its shape, and does not introduce more sound into the water. The two GI airguns will be towed 8 m (26.2 ft) apart side-by-side, 21 m (68.9 ft) behind the Thompson, at a depth of 3 m (9.8 ft). Depending on the configuration, the total effective volume will be 90 in^3 or 210 in^3. As a precautionary measure, SIO assumes that the larger volume will be used.

As the GI airguns are towed along the survey lines, the towed hydrophone array in the streamer and the sonobuoys receive the reflected signals and transfer the data to the on-board processing system. Given the relatively short streamer length behind the vessel, the turning rate of the vessel while the gear is deployed is much higher than the limit of five degrees per minute for a seismic vessel towing a streamer of more typical length (much greater than 1 km [0.5 nmi]). Thus maneuverability of the vessel is not limited much during operations.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re: 1 μPa. SPL (in decibels [dB]) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square (rms). Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted. SPL does not take the duration of a sound into account.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal downward-directed source levels of the airgun arrays used by SIO on the *Thompson* do not represent actual sound levels that can be measured at any location in the water. Rather they represent the level that would be found 1 m (3.3 ft) from a hypothetical point source emitting the same total amount of sound as is emitted by the combined GI airguns. The actual received level at any location in the water near the GI airguns will not exceed the source level of the strongest individual source. In this case, that will be about 234.4 dB re 1 μPam peak, or 239.8 dB re 1 μPam peak-to-peak. However, the difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors.

Accordingly, Lamont-Doherty Earth Observatory of Columbia University (L–DEO) has predicted the received sound levels in relation to distance and direction from the two GI airgun array. A detailed description of L–DEO's modeling for marine seismic source arrays for species mitigation is provided in Appendix A of SIO's EA. These are the nominal source levels applicable to downward propagation. The effective source levels for horizontal propagation are lower than those for downward propagation when the source consists of numerous airguns spaced apart from one another.

Appendix A of SIO's EA discusses the characteristics of the airgun pulses. NMFS refers the reviewers to the application and EA documents for additional information.

Predicted Sound Levels for the Airguns

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 105 in^3 GI airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received

in deep water are shown in Table 1 (see Table 1 of the IHA application).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 36 airgun array are not relevant for the two GI airguns to be used in the proposed survey. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water, however, SIO proposes to use the EZ predicted by L–DEO's model for the proposed GI airgun operations in deep water, although they are likely conservative given the empirical proposed GI airgun operations in deep water. Using the L–DEO model, Table 1 (below) shows the distances at which three rms sound levels are expected to be received from the two GI airgun array. The 180 and 190 dB re 1 μPa (rms) distances are the safety criteria for potential Level A harassment as specified by NMFS (2000) and are applicable to cetaceans and pinnipeds, respectively. If marine mammals are detected within or about to enter the appropriate EZ, the airguns will be shut-down immediately.

Table 1 summarizes the predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the two GI airgun array operating in deep water depths.

TABLE 1—DISTANCES TO WHICH SOUND LEVELS ≥ 190, 180, AND 160 dB RE 1 μPa (RMS) COULD BE RECEIVED IN DEEP WATER DURING THE PROPOSED SEISMIC SURVEY IN THE WESTERN TROPICAL PACIFIC OCEAN, NOVEMBER TO DECEMBER, 2011. DISTANCES ARE BASED ON MODEL RESULTS PROVIDED BY L–DEO.

Source and volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m)		
			190 dB	180 dB	160 dB
Two GI airguns (105 in^3)	3	Deep (> 1,000)	20	70	670

MBES

The *Thompson* will operate a Kongsberg EM 300 MBES concurrently during airgun operations to map characteristics of the ocean floor. The MBES has a hull-mounted transducer within a transducer pod that is located amidships. The system's normal operating frequency is approximately 30 kHz. The transmit fan-beam is split into either three or nine narrower beam sectors with independent active steering to correct for vessel yaw. Angular coverage is 36° (in Extra Deep Mode, for use in water depths 3,000 to 6,000 m [9,842.5 to 19,685 ft]) or 150° (in shallower water). The total angular coverage of 36° to 150° consists of the three or nine beams transmitted sequentially at each ping. Except in very deep water where the total beam is 36° × 1°, the composite fan beam is 150° × 1°, 150° × 2° or 150° × 4° depending on water depth. The nine beams making up the composite fan will overlap slightly if the vessel yaw is less than the fore-aft width of the beam (1, 2, or 4°, respectively). Achievable swath width on a flat bottom will normally be approximately five times the water depth. The maximum source level is 237 dB re 1 μPam (rms) (Hammerstad, 2005). In deep water (500 to 3,000 m [1,640.4 to 9,842.5 ft]), a pulse length of 5 milliseconds (ms) is normally used, and the ping rate is mainly limited by the round trip travel time in the water.

SBP

The *Thompson* will also operate an Ocean Data Equipment Corporation Bathy-2000 SBP continuously throughout the cruise simultaneously with the MBES to map and provide information about the sedimentary features and bottom topography. The SBP has a maximum 7 kilowatt (kW) transmit capacity into the underhull array. The energy from the SBP is directed downward from a 3 kHz transducer in the transducer array mounted in the hull of the vessel. Pulse duration ranges from 1.5 to 24 ms and the interval between pulses is controlled automatically by the system or manually by an operator depending on water depth and reflectivity of the bottom sediments. The system produces one sound pulse and then waits for its return before transmitting again. The swept (chirp) frequency ranges from 6 to 35 kHz. The maximum source output downward is 221 dB re 1 μPam (rms), but in practice, the system is rarely operated above 80% power level.

NMFS expects that acoustic stimuli resulting from the proposed operation of the two GI airgun array has the potential to harass marine mammals, incidental to the conduct of the proposed seismic survey. NMFS expects these disturbances to be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. NMFS does not expect that the movement of the *Thompson,* during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (7.4 km/hr or 4 kt) during seismic acquisition.

Description of the Proposed Dates, Duration, and Specified Geographic Region

The *Thompson* is expected to depart Honolulu, Hawaii, on November 5, 2011 and spend approximately 7 days in transit to the proposed survey area, 32 days alternating between acquiring magnetic and seismic data, and approximately 3 days in transit, arriving at Apra Harbor, Guam, on December 17, 2011. Seismic operations will be conducted for a total of approximately 16 days. Some minor deviation from this schedule is possible, depending on logistics and weather. The survey will encompass the area approximately 13° to 23° North, approximately 158° to 172° East, just north of the Marshall Islands (see Figure 1 of the IHA application). Water depths in the survey area generally range from approximately 2,000 to 6,000 m (6,561.7 to 19,685 ft); Wake Island is included in the survey area. The seismic survey will be conducted partly in international waters and partly in the EEZ of Wake Island (U.S.), and possibly in the EEZ of the Republic of the Marshall Islands.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Twenty-six marine mammal species (19 odontocetes, 6 mysticetes, and one pinniped) are known to or could occur in the Marshall Islands Marine Eco-region (MIME) study area. Several of

these species are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including the humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales, as well as the Hawaiian monk seal (*Monachus schauinslandi*). The North Pacific right whale (*Eubalaena japonica*), listed as endangered under the ESA, was historically distributed throughout the North Pacific Ocean north of 35° North and occasionally occurred as far south as 20° North. Whaling records indicate that the MIME was not part of its range (Townsend, 1935).

The dugong (*Dugong dugon*), also listed as endangered under the ESA, is distributed in shallow coastal waters throughout most of the Indo-Pacific region between approximately 27° North and South of the equator (Marsh, 2008). Its historical range extended to the Marshall Islands (Nair *et al.,* 1975). However, the dugong is declining or extinct in at least one third of its range and no long occurs in the MIME (Marsh, 2008). The dugong is managed by the U.S. Fish and Wildlife Service (USFWS) and is not considered further in this analysis; all others are managed by NMFS.

The marine mammals that occur in the proposed survey area belong to three taxonomic groups: odontocetes (toothed cetaceans, such as dolphins), mysticetes (baleen whales), and pinnipeds (seals, sea lions, and walrus). Cetaceans are the subject of the IHA application to NMFS.

Table 2 (below) presents information on the abundance, distribution, population status, conservation status, and density of the marine mammals that may occur in the proposed survey area during November to December, 2011.

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Table 2. The habitat, regional abundance, and conservation status of marine mammals that may occur in or near the proposed seismic survey area in the western tropical Pacific Ocean. [See text and Tables 2 to 3 in SIO's application for further details.]

Species	Habitat	Regional Abundance[4]	ESA[1]	MMPA[2]	Density (#/1,000 km^2) CNMI, Hawaii, and Mean[3]
Mysticetes					
Humpback whale (*Megaptera novaeangliae*)	Mainly nearshore waters, banks	20,800[5]	EN	D	0 0 0
Minke whale (*Balaenoptera acutorostrata*)	Pelagic and coastal	25,000[6]	NL	NC	0 0 0
Bryde's whale (*Balaenoptera edeni*)	Pelagic and coastal	20,000 to 30,000	NL	NC	0.41 0.21 0.3
Sei whale (*Balaenoptera borealis*)	Primarily offshore, pelagic	7,260 to 12,620[9]	EN	D	0.29 0 0.13
Fin whale (*Balaenoptera physalus*)	Continental slope, mostly pelagic	13,620 to 18,680[9]	EN	D	0 0 0
Blue whale (*Balaneoptera musculus*)	Pelagic, shelf, coastal	NA	EN	D	0 0 0
Odontocetes					
Sperm whale (*Physeter macrocephalus*)	Pelagic and deep seas	29,674[10]	EN	D	1.23 3.03 2.22
Pygmy sperm whale (*Kogia breviceps*)	Deep waters off the shelf	NA	NL	NC	0 3.19 1.76
Dwarf sperm whale (*Kogia sima*)	Deep waters off the shelf	11,200	NL	NC	0 7.82 4.30
Cuvier's beaked whale (*Ziphius cavirostris*)	Pelagic	20,000	NL	NC	0 6.80 3.74
Longman's beaked whale (*Indopacetus pacificus*)	Deep water	NA	NL	NC	0 0.45 0.25
Blainville's beaked whale (*Mesoplodon densirostris*)	Pelagic	25,300[11]	NL	NC	0 1.28 0.7

Species	Habitat	Regional Abundance[4]	ESA[1]	MMPA[2]	Density (#/1,000 km^2) CNMI, Hawaii, and Mean[3]
Ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*)	Pelagic	NA	NL	NC	0 0 0
Rough-toothed dolphin (*Steno bredanensis*)	Deep water	146,000	NL		0.29 3.12 1.85
Common bottlenose dolphin (*Tursiops truncatus*)	Coastal and oceanic, shelf break	243,500	NL	NC	0.21 1.23 0.77
Pantropical spotted dolphin (*Stenella attenuata*)	Coastal and pelagic	800,000[12]	NL	NC	22.6 2.10 11.32
Spinner dolphin (*Stenella longirostris*)	Coastal and pelagic	800,000[13]	NL	NC	3.14 0.83 1.87
Striped dolphin (*Stenella coeruleoalba*)	Off of continental shelf	1,000,000[14]	NL	NC	6.16 5.57 5.84
Fraser's dolphin (*Lagenodelphis hosei*)	Deep water	289,000	NL	NC	0 4.57 2.51
Risso's dolphin (*Grampus griseus*)	Deep waters, seamounts	176,000	NL	NC	0 0.83 0.46
Melon-headed whale (*Peponocephala electra*)	Oceanic	45,000	NL	NC	4.28 1.32 2.67
Pygmy killer whale (*Feresa attenuata*)	Deep, pantropical waters	39,000	NL	NC	0.14 0 0.06
False killer whale (*Pseudorca crassidens*)	Pelagic	40,000	NL Proposed EN – Insular Hawaiian	NC	1.11 0.11 0.57
Killer whale (*Orcinus orca*)	Pelagic, shelf, coastal	8,500	NL	NC	0 0.16 0.09
Short-finned pilot whale (*Globicephala macrorhynchus*)	Pelagic, shelf, coastal	500,000[14]	NL	NC	1.59 2.54 2.11
Pinnipeds					

Species	Habitat	Regional Abundance[4]	ESA[1]	MMPA[2]	Density (#/1,000 km^2) CNMI, Hawaii, and Mean[3]
Hawaiian monk seal (*Monachus schauinslandi*)	Coastal and pelagic	1,129[15]	EN	D	NA

N.A. Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, NC = Not Classified.
[3] CNMI, Hawaii, and mean density estimates as listed in Table 3 of the application.
[4] Eastern Tropical Pacific in 1986 to 1990 (Wade and Gerrodette, 1993) unless otherwise indicated.
[5] North Pacific (Barlow *et al*., 2009).
[6] Northwest Pacific and Okhotsk Sea (IWC, 2007a).
[7] North Pacific (Jefferson *et al*., 2008).
[8] North Pacific (Tillman, 1977).
[9] North Pacific (Ohsumi and Wada, 1974).
[10] Western North Pacific (Whitehead, 2002a).
[11] Eastern Tropical Pacific (ETP); all *Mesoplodon* spp. (Wade and Gerrodette, 1993).
[12] Western/Southern Offshore Stock in ETP in 2000 (Jefferson *et al*., 2008).
[13] ETP in 2000 (Jefferson *et al*., 2008).
[14] ETP (Jefferson *et al*., 2008).
[15] Entire species (Caretta *et al*., 2010).

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Refer to Section III and IV of SIO's application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the proposed project area. The application also presents how SIO calculated the estimated densities for the marine mammals in the proposed survey area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA.

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term.

Tolerance to Sound

Studies on marine mammals' tolerance to sound in the natural environment are relatively rare. Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (*i.e.,* the gradual waning of responses to a repeated or ongoing stimulus) (Richardson, *et al.,* 1995; Thorpe, 1963), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Malme *et al.,* (1985) studied the responses of humpback whales on their summer feeding grounds in southeast Alaska to seismic pulses from a airgun with a total volume of 100 in^3. They noted that the whales did not exhibit persistent avoidance when exposed to the airgun and concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB re 1 μPa.

Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. She recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings/hr) for humpback and sperm whales according to the airgun array's operational status (*i.e.,* active versus silent).

Masking of Natural Sounds

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.,* 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in

the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (*e.g.,* Simard *et al.,* 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (*e.g.,* Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the northeast Pacific Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008). Dolphins and porpoises commonly are heard calling while airguns are operating (*e.g.,* Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses. Refer to Appendix A(4) of SIO's EA for a more detailed discussion of masking effects on marine mammals.

Behavioral Disturbance

Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of industrial sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

The sound criteria used to estimate how many marine mammals might be disturbed to some biologically-important degree by a seismic program are based primarily on behavioral observations of a few species. Scientists have conducted detailed studies on humpback, gray, bowhead (*Balaena mysticetus*), and sperm whales, and on ringed seals (*Phoca hispida*). Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters, but for many species there are no data on responses to marine seismic surveys.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.,* 1995). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kms, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix A (5) of SIO's EA, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray and bowhead whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson, *et al.,* 1995). They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors.

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re 1 μPa (rms) seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed (Malme *et al.,* 1986, 1988; Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4.5 to 14.5 km (2.4 to 7.8 nmi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies summarized in Appendix A (5) of SIO's EA have shown that some species of baleen whales, notably bowhead and humpback whales, at times, show strong avoidance at received levels lower than 160 to 170 dB re 1 μPa (rms).

McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16 airgun array (2,678 in^3) and to a single airgun (20 in^3) with source level of 227 dB re 1 μPa (p-p). In the 1998 study, they documented that avoidance reactions began at five to eight km (2.7 to 4.3 nmi) from the array, and that those reactions kept most pods approximately three to four km from the operating seismic boat. In the 2000 study, they noted localized displacement during migration of four to five km by traveling pods and seven to 12 km (6.5 nmi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μPa (rms) for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of five to eight km from the airgun array and two km from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re 1 μPa (rms).

Data collected by observers during several seismic surveys in the Northwest Atlantic showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic vs. non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100 in^3) airgun (Malme *et al.,* 1985). Some humpbacks seemed ''startled'' at received levels of 150 to 169 dB re 1 μPa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to

172 dB re 1 μPa (rms). However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the Northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Studies have suggested that south Atlantic humpback whales wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was no observable direct correlation between strandings and seismic surveys (IWC, 2007:236).

There are no data on reactions of right whales to seismic surveys, but results from the closely-related bowhead whale show that their responsiveness can be quite variable depending on their activity (migrating versus feeding). Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with substantial avoidance occurring out to distances of 20 to 30 km (10.8 to 16.2 nmi) from a medium-sized airgun source at received sound levels of around 120 to 130 dB re 1 μPa (Miller *et al.,* 1999; Richardson *et al.,* 1999; see Appendix A (5) of SIO's EA). However, more recent research on bowhead whales (Miller *et al.,* 2005; Harris *et al.,* 2007) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. Nonetheless, subtle but statistically significant changes in surfacing–respiration–dive cycles were evident upon statistical analysis (Richardson *et al.,* 1986). In the summer, bowheads typically begin to show avoidance reactions at received levels of about 152 to 178 dB re 1 μPa (Richardson *et al.,* 1986, 1995; Ljungblad *et al.,* 1988; Miller *et al.,* 2005).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding eastern Pacific gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985), and western Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (*e.g.,* McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010) reported that singing fin whales in the Mediterranean moved away from an operating airgun array.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the Northwest Atlantic found that overall, this group had lower sighting rates during seismic vs. non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in Malme *et al.,* 1984; Richardson *et al.,* 1995; Allen and Angliss, 2010). The western Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.,* 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Allen and Angliss, 2010).

Toothed Whales—Little systematic information is available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above and (in more detail) in Appendix A of SIO's EA have been reported for toothed whales. However, there are recent systematic studies on sperm whales (*e.g.,* Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (*e.g.,* Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010).

Seismic operators and marine mammal observers on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (*e.g.,* Goold, 1996a, b, c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (*e.g.,* Moulton and Miller, 2005).

Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (*e.g.,* Stone and Tasker, 2006; Weir, 2008; Barry *et al.,* 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance. The beluga whale (*Delphinapterus leucas*) is a species that (at least at times) shows long-distance avoidance of seismic vessels. Aerial surveys conducted in the southeastern Beaufort Sea during summer found that sighting rates of beluga whales were significantly lower at distances 10 to 20 km compared with 20 to 30 km from an operating airgun array, and observers on seismic boats in that area rarely see belugas (Miller *et al.,* 2005; Harris *et al.,* 2007).

Captive bottlenose dolphins (*Tursiops truncatus*) and beluga whales exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high received levels of sound before exhibiting aversive behaviors.

Results for porpoises depend on species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (*e.g.,* Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call (see Appendix A of SIO's EA for review). However, controlled exposure experiments in the GOM indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales (*Hyperoodon ampullatus*) remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales tend to avoid approaching vessels of other types (*e.g.,* Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (*e.g.,* Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented explicitly. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the Northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating. There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are increasing indications that some beaked whales tend to strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (*e.g.,* Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.,* 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the Stranding and Mortality section in this notice). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of the mysticetes, belugas, and harbor porpoises (Appendix A of SIO's EA).

Pinnipeds—Pinnipeds are not likely to show a strong avoidance reaction to the airgun array. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds, and only slight (if any) changes in behavior, see Appendix A(5) of SIO's EA. In the Beaufort Sea, some ringed seals avoided an area of 100 m to (at most) a few hundred meters around seismic vessels, but many seals remained within 100 to 200 m (328 to 656 ft) of the trackline as the operating airgun array passed by (*e.g.,* Harris *et al.,* 2001; Moulton and Lawson, 2002; Miller *et al.,* 2005). Ringed seal sightings averaged somewhat farther away from the seismic vessel when the airguns were operating than when they were not, but the difference was small (Moulton and Lawson, 2002). Similarly, in Puget Sound, sighting distances for harbor seals and California sea lions tended to be larger when airguns were operating (Calambokidis and Osmek, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies (Thompson *et al.,* 1998).

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (*i.e.,* the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007).

Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, *i.e.,* permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or

hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). Table 1 (above) presents the distances from the *Thompson's* airguns at which the received energy level (per pulse, flat-weighted) would be expected to be greater than or equal to 190 dB re 1 μPa (rms).

Researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales (Southall *et al.,* 2007). For this proposed study, SIO expects no cases of TTS given the low abundance of baleen whales in the proposed survey area at the time of the proposed survey, and the strong likelihood that baleen whales would avoid the approaching airguns (or vessel) before being exposed to levels high enough for TTS to occur.

In pinnipeds, TTS thresholds associated with exposure to brief pulses (single or multiple) of underwater sound have not been measured. Initial evidence from more prolonged (non-pulse) exposures suggested that some pinnipeds (harbor seals in particular) incur TTS at somewhat lower received levels than do small odontocetes exposed for similar durations (Kastak *et al.,* 1999, 2005; Ketten *et al.,* 2001). The TTS threshold for pulsed sounds has been indirectly estimated as being an SEL of approximately 171 dB re 1 $\mu Pa^2 \cdot s$ (Southall *et al.,* 2007) which would be equivalent to a single pulse with a received level of approximately 181 to 186 dB re 1 μPa (rms), or a series of pulses for which the highest rms values are a few dB lower. Corresponding values for California sea lions and northern elephant seals are likely to be higher (Kastak *et al.,* 2005).

To avoid the potential for injury, NMFS (1995, 2000) concluded that cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μPa (rms) and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 190 dB re 1 μPa (rms). NMFS believes that to avoid the potential for permanent physiological damage (Level A harassment), cetaceans should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μPa (rms) and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 190 dB re 1 μPa (rms). The 180 dB and 190 dB levels are the shutdown criterion applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. NMFS also assumes that marine mammals exposed to levels exceeding 160 dB re 1 μPa (rms) may experience Level B harassment.

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (*e.g.,* Richardson *et al.,* 1995, p. 372*ff;* Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals. PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time—see Appendix A (6) of SIO's EA. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the TTS threshold on a peak-pressure basis, and probably greater than six dB (Southall *et al.,* 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals.

Stranding and Mortality—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used for marine waters for commercial seismic surveys or (with rare exceptions) for seismic research; they have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar and, in one case, an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006), has raised the possibility that beaked whales exposed to strong ''pulsed'' sounds may be especially susceptible to injury and/or behavioral reactions that can lead to stranding (*e.g.,* Hildebrand, 2005; Southall *et al.,* 2007). Appendix A (6) of SIO's EA provides additional details.

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

(1) Swimming in avoidance of a sound into shallow water;

(2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

(3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

(4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues. Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are indications that gas-bubble disease (analogous to ''the bends''), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. However, the evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of two to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to assume that there is a direct connection between the effects of military sonar and seismic surveys on marine mammals. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (*e.g.,* Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernández *et al.,* 2004, 2005; Hildebrand 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity ''pulsed'' sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales (*Ziphius cavirostris*) in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20 airgun (8,490 in^3) array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and

(2) Differences between the sound sources operated by SIO and those involved in the naval exercises associated with strandings.

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales and some odontocetes, are especially unlikely to incur non-auditory physical effects.

Potential Effects of Other Acoustic Devices

MBES

SIO will operate the Kongsberg EM 300 MBES from the source vessel during the planned study. Sounds from the MBES are very short pulses, occurring for five ms once every five to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this MBES is at frequencies near 30 kHz, and the maximum source level is 237 dB re 1 μPa (rms). The beam is narrow (1°) in fore-aft extent and wide (36°) in the cross-track extent. Each ping consists of nine (in water greater than 1,000 m deep) or three (in water less than 1,000 m deep) successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Kongsberg EM 300 are unlikely to be subjected to repeated pulses because of the narrow fore-aft width of the beam and will receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one five ms pulse (or two pings if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when an MBES emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Kongsberg EM 300; and (2) are often directed close to horizontally versus more downward for the MBES. The area of possible influence of the MBES is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During SIO's operations, the individual pulses will be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of an MBES on marine mammals are outlined below.

Masking—Marine mammal communications will not be masked appreciably by the MBES signals given the low duty cycle of the echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen

whales, the MBES signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.,* 1985), increased vocalizations and no dispersal by pilot whales (*Globicephala melas*) (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz ''whale-finding'' sonar with a source level of 215 dB re 1 μPa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (Frankel, 2005). When a 38 kHz echosounder and a 150 kHz acoustic Doppler current profiler were transmitting during studies in the Eastern Tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1 s tonal signals at frequencies similar to those that will be emitted by the MBES used by SIO, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.,* 2000; Finneran *et al.,* 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from an MBES.

Very few data are available on the reactions of pinnipeds to echosounder sounds at frequencies similar to those used during seismic operations. Hastie and Janik (2007) conducted a series of behavioral response tests on two captive gray seals to determine their reactions to underwater operation of a 375 kHz multibeam imaging echosounder that included significant signal components down to 6 kHz. Results indicated that the two seals reacted to the signal by significantly increasing their dive durations. Because of the likely brevity of exposure to the MBES sounds, pinniped reactions are expected to be limited to startle or otherwise brief responses of no lasting consequences to the animals.

Hearing Impairment and Other Physical Effects—Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the MBES proposed for use by SIO is quite different than sonar used for Navy operations. Pulse duration of the MBES is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the MBES for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often uses near-horizontally-directed sound. Those factors would all reduce the sound energy received from the MBES rather drastically relative to that from naval sonar.

NMFS believes that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the MBES is not likely to result in the harassment of marine mammals.

SBP

SIO will also operate a SBP from the source vessel during the proposed survey. Sounds from the SBP are very short pulses, occurring for up to 25 ms once every three to eight s. Most of the energy in the sound pulses emitted by the SBP is at three to six kHz, and the beam is directed downward. The SBP on the *Thompson* has a maximum source level of 211 dB re 1 μPa (rms).

Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for an SBP more powerful than that on the *Thompson*—if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Masking—Marine mammal communications will not be masked appreciably by the SBP signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the SBP signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the SBP are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the SBP are considerably weaker than those from the MBES. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the SBP produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The SBP is usually operated simultaneously with other higher-power acoustic sources, including airguns. Many marine mammals will move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the SBP.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections) which, as noted are designed to effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey will not result in any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (*i.e.* fish and invertebrates), and there will be no physical damage to any habitat. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish populations is limited (see Appendix C of SIO's EA). There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects

involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (*e.g.,* startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (*i.e.,* mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because ultimately, the most important aspect of potential impacts relates to how exposure to seismic survey sound affects marine fish populations and their viability, including their availability to fisheries.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question (see Appendix C of SIO's EA). For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (*e.g.,* predator avoidance, prey capture, orientation and navigation, reproduction, *etc.*) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as SIO and NMFS know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns [less than 400 Hz in the study by McCauley *et al.* (2003) and less than approximately 200 Hz in Popper *et al.* (2005)] likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that will propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.,* 1987; La Bella *et al.,* 1996; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.,* 2003; Popper *et al.,* 2005; Boeger *et al.,* 2006).

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.,* 1996; Dalen *et al.,* 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a 'worst-case scenario' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.,* 1994; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus (see Appendix C of SIO's EA).

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (*e.g.,* Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Santulli *et al.,* 1999; Wardle *et al.,* 2001; Hassel *et al.,* 2003). Typically, in these studies fish exhibited a sharp ''startle'' response at the onset of a sound

followed by habituation and a return to normal behavior after the sound ceased.

There is general concern about potential adverse effects of seismic operations on fisheries, namely a potential reduction in the ''catchability'' of fish involved in fisheries. Although reduced catch rates have founded by other sources of disturbance (Dalen and Raknes, 1985; Dalen and Knutsen, 1986; Lokkeborg, 1991; Skalski *et al.,* 1992; Engas *et al.,* 1996). In other airgun experiments, there was no change in catch per unit effort of fish when airgun pulses were emitted, particularly in the immediate vicinity of the seismic survey (Pickett *et al.,* 1994; La Bella *et al.,* 1996). For some species, reductions in catch may have resulted from a change in behavior of the fish, *e.g.,* a change in vertical or horizontal distribution, as reported in Slotte *et al.* (2004).

In general, any adverse effects on fish behavior or fisheries attributable to seismic testing may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001; see also Appendix D of SIO's EA).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is provided in Appendix D of SIO's EA.

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.*, 1994; Christian *et al.*, 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled field experiments on adult crustaceans (Christian *et al.*, 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.*, 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.*, 2004), but the article provides little evidence to support this claim. Recent work by Andre *et al.* (2011) purports to present the first morphological and ultrastructural evidence of massive acoustic trauma (*i.e.*, permanent and substantial alterations of statocyst sensory hair cells) in four cephalopod species subjected to low-frequency sound. The cephalopods, primarily cuttlefish, were exposed to continuous 50 to 400 Hz sinusoidal wave sweeps (100% duty cycle and 1 s sweep period) for two hours while captive in relatively small tanks (one 2,000 liter [L, 2m^3] and one 200 L [0.2 m^3] tank), and reported morphological and ultrastructural evidence of massive acoustic trauma (*i.e.*, permanent and substantial alterations of statocyst sensory hair cells). The received SPL was reported as 157±5 dB re 1 μPa, with peak levels at 175 dB re 1 μPa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (*i.e.,* changes in haemolymph levels of enzymes, proteins, *etc.*) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.,* 2007). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (*e.g.*, squid in McCauley *et al.*, 2000a,b). In other cases, no behavioral impacts were noted (*e.g.*, crustaceans in Christian *et al.*, 2003, 2004; DFO 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.*, 2005). Similarly, Parry and Gason

(2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method).

Proposed Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

SIO has based the mitigation measures described herein, to be implemented for the proposed seismic survey, on the following:

(1) Protocols used during previous SIO seismic research cruises as approved by NMFS;

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, SIO and/or its designees has proposed to implement the following mitigation measures for marine mammals:

(1) Proposed exclusion zones;

(2) Speed or course alteration;

(3) Shut-down procedures; and

(4) Ramp-up procedures.

Proposed Exclusion Zones—Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 105 in^3 GI airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the source where sound levels are predicted to be 190, 180, and 160 dB re 1 μPa (rms) in deep water were determined (see Table 1 above).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.*, 2004) and 2007 to 2008 (Tolstoy *et al.*, 2009). Results of the 36 airgun array are not relevant for the two GI airguns to be used in the proposed survey. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.*, 2004). Measurements were not made for the two GI airgun array in deep water, however, SIO proposes to use the EZ predicted by L–DEO's model for the proposed GI airgun operations in deep water, although they are likely conservative give the empirical results for the other arrays.

The 180 and 190 dB radii are shut-down criteria applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. If the PSO detects marine mammal(s) within or about to enter the appropriate EZ, the airguns will be shut-down, immediately.

Speed or Course Alteration—If a marine mammal is detected outside the EZ an, based on its position and the relative motion, is likely to enter the EZ, the vessel's speed and/or direct course could be changed. This would be done if operationally practicable while minimizing the effect on the planned science objectives. The activities and movements of the marine mammal (relative to the seismic vessel) will then be closely monitored to determine whether the animal is approaching the applicable EZ. If the animal appears likely to enter the EZ, further mitigative actions will be taken, *i.e.*, either further course alterations or a shut-down of the seismic source. Typically, during seismic operations, the source vessel is unable to change speed or course and one or more alternative mitigation measures will need to be implemented.

Shut-down Procedures—SIO will shut down the operating airgun(s) if a marine mammal is seen outside the EZ for the airgun(s), and if the vessel's speed and/or course cannot be changed to avoid having the animal enter the EZ, the seismic source will be shut-down before the animal is within the EZ. If a marine mammal is already within the EZ when first detected, the seismic source will be shut-down immediately.

Following a shut-down, SIO will not resume airgun activity until the marine mammal has cleared the EZ. SIO will consider the animal to have cleared the EZ if:

- A PSO has visually observed the animal leave the EZ, or
- A PSO has not sighted the animal within the EZ for 15 min for species with shorter dive durations (*i.e.*, small odontocetes or pinnipeds), or 30 min for species with longer dive durations (*i.e.*, mysticetes and large odontocetes, including sperm, killer, and beaked whales).

Ramp-up Procedures—SIO will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a shut-down has exceeded that period. SIO proposes that, for the present cruise, this period would be approximately 15 min. SIO has used similar periods (approximately 15 min) during previous SIO surveys.

Ramp-up will begin with a single GI airgun (105 in^3). The second GI airgun (105 in^3) will be added after five min. During ramp-up, the Protected Species Observers (PSOs) will monitor the EZ, and if marine mammals are sighted, SIO will implement a shut-down as though both GI airguns were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, SIO will not commence the ramp-up. If one airgun has operated, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. A ramp-up from a shut-down may occur at night, but only where the EZ is small enough to be visible. SIO will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable EZs during the day or close to the vessel at night.

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine

mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring

SIO proposes to sponsor marine mammal monitoring during the proposed project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. SIO's proposed Monitoring Plan is described below this section. SIO understands that this monitoring plan will be subject to review by NMFS, and that refinements may be required. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. SIO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

PSOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups at night. PSOs will also watch for marine mammals near the seismic vessel for at least 30 min prior to the ramp-up of airgun operations after an extended shut-down (*i.e.*, greater than approximately 15 min for this proposed cruise). When feasible, PSOs will conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSO observations, the airguns will be shut-down when marine mammals are observed within or about to enter a designated EZ. The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations in the western tropical Pacific Ocean, at least three PSOs will be based aboard the *Thompson*. SIO will appoint the PSOs with NMFS's concurrence. At least one PSO will monitor the EZs during seismic operations. Observations will take place during ongoing daytime operations and nighttime ramp-ups of the airguns. PSO(s) will be on duty in shifts of duration no longer than 4 hr. The vessel crew will also be instructed to assist in detecting marine mammals.

The *Thompson* is a suitable platform for marine mammal observations. Two locations are likely as observation stations onboard the *Thompson*. At one station on the bridge, the eye level will be approximately 13.8 m (45.3 ft) above sea level and the location will give the PSO a good view around the entire vessel (*i.e.*, 310° for one PSO and a full 360° when two PSOs are stationed at different vantage points). A second observation site is the 03 deck where the PSOs eye level will be 10.8 m (35.4 ft) above sea level. The 03 deck offers a view of 330° for the two PSOs.

During daytime, the PSVOs will scan the area around the vessel systematically with reticle binoculars (*e.g.*, 7 × 50 Fujinon), Big-eye binoculars (25 × 150), optical range finders and with the naked eye. During darkness, night vision devices (NVDs) will be available, when required. The PSOs will be in wireless communication with the vessel's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut-down. When marine mammals are detected within or about to enter the designated EZ, the airguns will immediately be shut-down if necessary. The PSO(s) will continue to maintain watch to determine when the animal(s) are outside the EZ by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the EZ, or if not observed after 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (mysticetes and large odontocetes, including sperm, killer, and beaked whales).

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a shut-down of the airguns when a marine mammal is within or near the EZ. Observations will also be made during daytime periods when the *Thompson* is underway without seismic operations (*i.e.*, transits to, from, and through the study area) to collect baseline biological data.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.*, none, avoidance, approach, paralleling, *etc.*), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, Beaufort sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations as well as information regarding shut-downs of the seismic source, will be recorded in a standardized format. The data accuracy will be verified by the PSOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently.

Vessel-based observations by the PSO will provide:

1. The basis for real-time mitigation (airgun shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

SIO will submit a report to NMFS and NSF within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will

summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures that could result in potential ''takes'' of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.*, ship-strike, gear interaction, and/or entanglement), SIO will immediately cease the specified activities and immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office Stranding Coordinator at 808–944–2269 (*David.Schofield@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with SIO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. SIO may not resume their activities until notified by NMFS via letter or e-mail, or telephone.

In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as described in the next paragraph), SIO will immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office (808–944–2269) and/or by e-mail to the Pacific Islands Regional Stranding Coordinator (*David.Schofield@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with SIO to determine whether modifications in the activities are appropriate.

In the event that SIO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), SIO will report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov*, and the NMFS Pacific Islands Regional Office (808–944–2269), and/or by e-mail to the Pacific Islands Regional Stranding Coordinator *(David.Schofield@noaa.gov*), within 24 hours of discovery. SIO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Only take by Level B harassment is anticipated and proposed to be authorized as a result of the proposed marine geophysical survey in the western tropical Pacific Ocean. Acoustic stimuli (*i.e.*, increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause marine mammals in the survey area to be exposed to sounds at or greater than 160 dB or cause temporary, short-term changes in behavior. There is no evidence that the planned activities could result in injury, serious injury, or mortality within the specified geographic area for which SIO seeks the IHA. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe SIO's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected during the proposed seismic program. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the two GI airgun array to be used during approximately 1,600 km of survey lines in the western tropical Pacific Ocean.

SIO assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES and SBP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (*e.g.*, narrow, downward-directed beam) and other considerations described previously. Such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, SIO provides no additional allowance for animals that could be affected by sound sources other than airguns.

Extensive systematic ship-based surveys have been conducted by NMFS Southwest Fisheries Science Center (SWFSC) for marine mammals in the eastern, but not the western tropical Pacific Ocean. A systematic vessel-based marine mammal survey was conducted approximately 2,500 km (1,349.9 nmi) west of the proposed survey area in the Commonwealth of the Northern Mariana Islands (CNMI) for the U.S. Navy during January to April, 2007 (SRS–Parsons *et al.*, 2007; Fulling *et al.*, in press). The cruise area was defined by the boundaries 10° to 18° North, 142° to 148° East, encompassing an area approximately 585,000 km^2 (170,558.7 nmi^2) including the islands of Guam and the southern CNMI. The survey was conducted using standard line-transect protocols developed by NMFS SWFSC. Observers visually surveyed 11,033 km (5,957.3 nmi) of trackline, mostly in high sea states (88% of the time in Beaufort Sea states four to six). Another survey was conducted by SWFSC approximately 3,500 km (1,889.8 nmi) east of the proposed survey area in the EEZ around Hawaii during August to November, 2002;

survey effort was 3,550 km (1,916.8 nmi) in the ''Main Island stratum,'' which had a surface area of 2,240,024 km² (653086.5 nmi²) (Barlow, 2006).

SIO used densities that were the effort-weighted means for the CNMI (Fulling *et al.*, in press) and the outer EEZ stratum of Hawaii (Barlow, 2006). The densities had been corrected, by the original authors, for trackline detection probability bias, and for data from Hawaii, for availability bias. Trackline detection probability bias is associated with diminishing sightability with increasing lateral distance from the trackline, and is measured by $f(0)$. Availability bias refers to the fact that there is less-than-100% probability of sighting an animal that is present along the survey trackline $f(0)$, and it is measured by g(0). Fulling *et al.* (in press) did not correct the CNMI densities for availability bias (*i.e.*, it was assumed that g(0)=1), which resulted in underestimates of density. The densities are given in Table 3 of SIO's IHA application.

There is some uncertainty about the representativeness of the data and the assumptions used in the calculations, for example:

(1) The timing of most of the surveys was different, the CNMI survey was from January to April, the Hawaii survey was from August to November, and the proposed SIO survey is from November to December;

(2) Locations were also different, with the proposed survey area approximately 2,500 km east of the CNMI and approximately 3,500 km west of Hawaii; and

(3) Most of the Marianas survey was in high sea states that would have prevented detection of many marine mammals, especially cryptic species such as beaked whales and *Kogia* spp.

However, the approach used here is believed to be the best available approach.

SIO's estimates of exposures to various sound levels assume that the proposed surveys will be fully completed; in fact, the ensonified areas calculated using the planned number of line-km have been increased by 25% to accommodate turns, lines that may need to be repeated, equipment testing, *etc.* As is typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated EZs will result in the shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to sound levels of 160 dB re 1 μPa (rms) are precautionary and probably overestimate the actual numbers of marine mammals that might be involved. These estimates also assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

SIO estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion, along with the expected density of marine mammals in the area. The proposed seismic lines do not run parallel to each other in close proximity and the ensonified areas do not overlap, thus an individual mammal that was stationary would be exposed once during the proposed survey.

The numbers of different individuals potentially exposed to greater than or equal to 160 dB (rms) were calculated by multiplying the expected species density times the anticipated area to be ensonified. The area was determined by entering the planned survey lines into a MapInfo GIS, using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB buffer (see Table 1 of the IHA application) around each seismic line, and then calculating the total area within the buffers. For this survey, there were no areas of overlap because of crossing lines.

Applying the approach described above, approximately 2,144 km² (625.1 nmi²) (approximately 2,680 km² [781.4 nmi²] including the 25% contingency) would be within the 160 dB isopleth on one or more occasions during the proposed survey. Because this approach does not allow for turnover in the marine mammal populations in the study area during the course of the survey, the actual number of individuals exposed could be underestimated, although the conservative (*i.e.,* probably overestimated) line-kilometer distances used to calculate the area may offset this. Also, the approach assumes that no cetaceans will move away from or toward the trackline as the *Thompson* approaches in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to greater than or equal to 160 dB re 1 μPa (rms).

Table 3 (Table 4 of the IHA application) shows the estimates of the number of different individual marine mammals that potentially could be exposed to greater than or equal to 160 dB re 1 μPa (rms) during the seismic survey if no animals moved away from the survey vessel. The requested take authorization is given in Table 3 (below; the far right column of Table 4 of the IHA application). For ESA listed species, the requested take authorization has been increased to the mean group size in the CNMI (Fulling *et al.,* in press) for the particular species in cases where the calculated number of individuals exposed was between 0.05 and the mean group size (*i.e.,* for the sei whale). For species not listed under the ESA that could occur in the study area, the requested take authorization has been increased to the mean group size in the CNMI (Fulling *et al.,* in press) or, for species not sighted in the CNMI survey, Hawaii (Barlow, 2006) for the particular species in cases where the calculated number of individuals exposed was between 1 and the mean group size.

The estimate of the number of individual cetaceans that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the proposed survey is 118 (see Table 4 of the IHA application). That total includes 1 Bryde's whale, 6 sperm whales, 5 pygmy sperm whales, 12 dwarf sperm whales, 10 Cuvier's beaked whales, 1 Longman's beaked whale, 2 Blainville's beaked whales, 5 rough-toothed dolphins, 2 bottlenose dolphins, 30 pantropical spotted dolphins, 5 spinner dolphins, 16 striped dolphins, 7 Fraser's dolphins, 1 Risso's dolphin, 7 melon-headed whales, 2 false killer whales, and 6 short-finned pilot whales which would represent less than 0.01%, 0.02%, NA, less than 0.01%, 0.05%, NA, less than 0.01%, less than 0.01%, less than 0.01%, less than 0.01%, less than 0.01%, less than 0.01%, less than 0.01%, less than 0.01%, 0.02%, less than 0.01%, and less than 0.01% of the regional populations, respectively. Most (68.6%) of the cetaceans potentially exposed are delphinids; pantropical spotted, striped, and Fraser's dolphins are estimated to be the most common species in the proposed study area.

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Table 3. Estimates of the possible numbers of marine mammals exposed to different sound levels ≥160 dB during SIO's proposed seismic survey in the western tropical Pacific Ocean during November to December, 2011.

Species	Estimated Number of Individuals Exposed to Sound Levels ≥ 160 dB re 1 μPa[1]	Requested Take Authorization	Approximate Percent of Regional Population[2]
Mysticetes			
Humpback whale	0	0	0
Minke whale	0	0	0
Bryde's whale	1	1[3]	<0.01
Sei whale	0	1[3]	<,0.01
Fin whale	0	0	0
Blue whale	0	0	0
Odontocetes			
Sperm whale	6	6	0.02
Pygmy sperm whale	5	5	NA
Dwarf sperm whale	12	12	<0.01
Cuvier's beaked whale	10	10	0.05
Longman's beaked whale	1	18	NA
Blainville's beaked whale	2	2	<0.01
Ginkgo-toothed beaked whale	0	0	0
Rough-toothed dolphin	5	9[3]	<0.01
Bottlenose dolphin	2	2[3]	<0.01
Pantropical spotted dolphin	30	64[3]	<0.01
Spinner dolphin	5	98[3]	<0.01
Striped dolphin	16	27[3]	<0.01
Fraser's dolphin	7	182[4]	<0.01
Risso's dolphin	1	15[4]	<0.01
Melon-headed whale	7	95[3]	0.02
Pygmy killer whale	0	0	0
False killer whale	2	10[3]	<0.01
Killer whale	0	7[4]	<0.01
Short-finned pilot whale	6	18[3]	<0.01
Pinnipeds			
Hawaiian monk seal	0	0	0

[1] Estimates are based on densities from Table 2 (Table 3 of the IHA application) and ensonified areas (including 25% contingency) for 160 dB of 2,680 km^2.
[2] Regional population size estimates are from Table 2 (see Table 2 of the IHA application); NA means not available.
[3] Increased to mean group size in the CNMI (Fulling et al. in press).
[4] Increased to mean group size in Hawaii (Barlow, 2006).

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Encouraging and Coordinating Research

SIO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey in the western tropical Pacific Ocean with any parties that may have or express an interest in the proposed seismic survey. UW will work with the U.S. Department of State to obtain the necessary approvals for operating in the foreign EEZ of the Republic of the Marshall Islands.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited);

(3) The context in which the takes occur (*i.e.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable, and impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures (*i.e.,* the manner and degree in which the measure is likely to reduce adverse impacts to marine mammals, the likely effectiveness of the measures, and the practicability of implementation).

For reasons stated previously in this document, the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death because:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the incorporation of the required monitoring and mitigation measures (described above);

(3) The fact that pinnipeds would have to be closer than 20 m (65.6 ft) in deep water when the two GI airgun array is in use at 3 m (9.8 ft) tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS;

(4) The fact that cetaceans would have to be closer than 70 m (229.7 ft) in deep water when the two GI airgun array is in 3 m tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS; and

(5) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of SIO's planned marine seismic survey, and none are authorized by NMFS. Only short-term, behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the survey activities. Table 3 in this document outlines the number of Level B harassment takes that are anticipated as a result of the activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see Potential Effects on Marine Mammals section above) in this notice, the activity is not expected to impact rates of recruitment or survival for any affected species or stock.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While seismic operations are anticipated to occur on consecutive days, the entire duration of the survey is not expected to last more than 32 days and the *Thompson* will be continuously moving along planned tracklines. Therefore, the seismic survey will be increasing sound levels in the marine environment surrounding the vessel for several weeks in the study area. Of the 26 marine mammal species under NMFS jurisdiction that are known to or likely to occur in the study area, six are listed as threatened or endangered under the ESA: humpback, sei, fin, blue, sperm, and Hawaiian monk seals. These species are also considered depleted under the MMPA. The Hawaiian monk seal population has generally been decreasing (the main Hawaiian islands population appears to be increasing). There is generally insufficient data to determine population trends for the other depleted species in the study area. To protect these animals (and other marine mammals in the study area), SIO must cease or reduce airgun operations if animals enter designated zones. No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

As mentioned previously, NMFS estimates that 19 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the proposed IHA. For each species, these numbers are small (each less than one percent) relative to the regional population size. The population estimates for the marine mammal species that may be taken by harassment were provided in Table 2 of this document.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a marine geophysical survey in the western tropical Pacific Ocean, November to December, 2011, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. See Table 3 (above) for the requested authorized take numbers of cetaceans.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led NMFS to preliminary determine that this action will have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that SIO's planned research activities, will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the marine seismic survey will have a negligible impact on the affected species or stocks of marine mammals; and that impacts to affected species or stocks of marine mammals have been mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (offshore waters of the western tropical Pacific Ocean) that implicate MMPA section 101(a)(5)(D).

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey

area, several are listed as endangered under the ESA, including the humpback, sei, fin, blue, and sperm whales, as well as the Hawaiian monk seal. Under section 7 of the ESA, NSF has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Division, on this proposed seismic survey. NMFS's Office of Protected Resources, Permits, Conservation and Education Division, has initiated formal consultation under Section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS will conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, NSF and SIO, in addition to the mitigation and monitoring requirements included in the IHA, will be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS's Biological Opinion issued to both NSF and NMFS's Office of Protected Resources.

National Environmental Policy Act (NEPA)

With its complete application, NSF and SIO provided NMFS a draft EA analyzing the direct, indirect, and cumulative environmental impacts of the proposed specified activities on marine mammals including those listed as threatened or endangered under the ESA. The draft EA, prepared by NSF incorporates a document prepared by LGL on behalf of NSF and SIO. It is entitled ''Environmental Assessment of a Low-Energy Marine Geophysical Survey by the R/V *Thompson* in the Western Tropical Pacific Ocean, November–December 2011.'' Prior to making a final decision on the SIO application, NMFS will either prepare an independent EA, or, after review and evaluation of the SIO EA for consistency with the regulations published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Environmental Policy Act, adopt the NSF EA and make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

NMFS proposes to issue an IHA to SIO for conducting a marine geophysical survey in the western tropical Pacific Ocean, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The duration of the IHA would not exceed one year from the date of its issuance.

Information Solicited

NMFS requests interested persons to submit comments and information concerning this proposed project and NMFS's preliminary determination of issuing an IHA (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 25, 2011.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–19244 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Fastener Quality Act Insignia Recordal Process

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 27, 2011.

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

- *E-mail: InformationCollection@uspto.gov.* Include ''0651–0028 comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at 571–272–8946, or by e-mail to *Catherine.Cain@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

Under Section 5 of the Fastener Quality Act of 1999 (FQA), 15 U.S.C. 5401 *et seq.,* certain industrial fasteners must bear an insignia identifying the manufacturer. It is also mandatory for manufacturers of fasteners covered by the FQA to submit an application to the United Stated Patent and Trademark Office (USPTO) for recordal of the insignia on the Fastener Insignia Register.

The procedures for the recordal of fastener insignia under the FQA are set forth in 15 CFR 280.300 *et seq.* The purpose of requiring both the insignia and the recordation is to ensure that certain fasteners can be traced to their manufacturers and to protect against the sale of mismarked, misrepresented, or counterfeit fasteners.

The insignia may be either a unique alphanumeric designation that the USPTO will issue upon request or a trademark that is registered at the USPTO or is the subject of an application to obtain a registration. After a manufacturer submits a complete application for recordal, the USPTO issues a Certificate of Recordal. These certificates remain active for five years. Applications to renew the certificates must be filed within six months of the expiration date or, upon payment of an additional surcharge, within six months following the expiration date.

If a recorded alphanumeric designation is assigned by the manufacturer, the designation becomes ''inactive,'' and the new owner must submit an application to reactivate the designation within six months of the date of assignment. If the recordal is based on a trademark application or registration, and that registration is assigned, the recordal becomes ''inactive'' and cannot be reactivated. Instead, the new owner of the trademark application or registration must apply for a new recordal. Manufacturers who record insignia must notify the USPTO of any changes of address.

This information collection includes one form, the Application for Recordal of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act (PTO–1611), which provides manufacturers with a convenient way to

submit a request for the recordal of a fastener insignia or to renew or reactivate an existing Certificate of Recordal. Use of Form PTO–1611 is not mandatory, and applicants may instead prepare requests for recordal using their own format.

The public uses this information collection to comply with the insignia recordal provisions of the FQA. The USPTO uses the information in this collection to record or renew insignias under the FQA and to maintain the Fastener Insignia Register, which is open to public inspection. The public may download the Fastener Insignia Register from the USPTO Web site.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0028.

Form Number(s): PTO–1611.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 95 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to gather the necessary information, prepare the form, and submit the request for recordal or renewal of a fastener insignia to the USPTO.

Estimated Total Annual Respondent Burden Hours: 24 hours.

Estimated Total Annual Respondent Cost Burden: $2,928. The USPTO expects that the information in this collection will be prepared by paraprofessionals at an estimated rate of $122 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately $2,928 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Application for Recordal of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act (PTO–1611)	15 minutes	95	24
Totals		95	24

Estimated Total Annual Non-hour Respondent Cost Burden: $2,044. There are no capital start-up, recordkeeping, or maintenance costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

Under 37 CFR 2.7, the filing fee is $20 for a recordal of a new fastener insignia, a renewal, or a request for reactivation. The USPTO estimates that it will receive 95 new recordals, renewals, or reactivations of fastener insignia per year, for a total of $1,900 in filing fees. If a manufacturer submits a renewal after the expiration date but within six months of that date, then the manufacturer must pay an additional $20 late-renewal surcharge. The USPTO estimates that approximately 7 of the 95 responses per year will be late renewals that incur the surcharge, for a total of $140 in additional charges. Therefore, the total estimated filing fees for this collection will be $2,040 per year.

The public may submit the information for this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that approximately 5 of the 95 responses per year will be submitted to the USPTO by mail at an average first-class postage cost of 88 cents per response, for a total postage cost of approximately $4 per year.

The total non-hour respondent cost burden for this collection in the form of filing fees ($2,040) and postage costs ($4) is estimated to be $2,044 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 26, 2011.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2011–19198 Filed 7–28–11; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 8/29/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 5/27/2011 (76 FR 30923–30924) and 6/3/2011 (76 FR 32146), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. The action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

NSN: 8105–00–NIB–1309—Can Liner, Low Density, Gusset Cut, Clear, 12x8x22.
NSN: 8105–00–NIB–1322—Can Liner, Low Density, Star Seal, Clear, 24x33.
NSN: 8105–00–NIB–1323—Can Liner, Low Density, Star Seal, Clear, 33x44.
NSN: 8105–00–NIB–1324—Can Liner, Low Density, Star Seal, Clear, 40x48.
NPA: Envision, Inc., Wichita, KS.
Contracting Activity: Department of Veterans Affairs National Acquisition Center, Hines, IL.
Coverage: C-List for 100% of the requirement of the Department of Veterans Affairs as aggregated by the Department of Veterans Affairs National Acquisition Center, Hines, IL.
NSN: M.R. 301—Silicone Spatula.
NSN: M.R. 302—Silicone Batter Spoon.
NSN: M.R. 303—Silicone Whisk.
NSN: M.R. 304—Silicone Tong w/Locking Handle.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Defense Commissary Agency, Fort Lee, VA.
Coverage: C-List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

Service

Service Type/Location: Janitorial Service, Norman Military Complex (excluding Norman Armed Force Reserve Center), Norman, OK.
NPA: Dale Rogers Training Center, Inc., Oklahoma City, OK.
Contracting Activity: Dept. of the Army, W7NV USPFO Activity OK ARNG, Oklahoma City, OK.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2011–19195 Filed 7–28–11; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to the procurement list.

SUMMARY: The Committee is proposing to add a product to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

Comments Must Be Received On or Before: 8/29/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed action.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the product listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the product to the Government.

2. If approved, the action will result in authorizing a small entity to furnish the product to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following product is proposed for addition to Procurement List for production by the nonprofit agency listed:

Product

NSN: 8970–01–576–1950—Kit, Remote Feeding and Cleaning.
NPA: NewView Oklahoma, Inc., Oklahoma City, OK.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2011–19196 Filed 7–28–11; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program (SERDP), Scientific Advisory Board

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). The topic of the meeting on September 13, 2011 is to review new start research and development projects related to the Environmental Restoration and Weapons System and Platforms program areas. These projects are requesting Strategic Environmental Research and Development Program funds in excess of $1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

DATES: Tuesday, September 13, 2011 from 9 a.m. to 5 p.m.

ADDRESSES: SERDP Office Conference Center, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2126.

Dated: July 26, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–19249 Filed 7–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0082]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, Personnel and Readiness, Department of Defense.

ACTION: Notice to delete a System of Records.

SUMMARY: The Office of the Secretary of Defense (Personnel and Readiness) is deleting systems of records notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on August 29, 2011 unless comments are received which result in a contrary determination.

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

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

* *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

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

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard, Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: July 25, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:

DPR 28

SYSTEM NAME:

Military Deployment Issues Files (April 20, 2001, 66 FR 20276).

REASON:

Based on a recent review of DPR 28, Military Deployment Issues Files of the Special Assistant to the Under Secretary of Defense, it has been concluded that DPR 28 is duplicative of DHA 05 Military Deployment Issues Files (March 29, 2006, 71 FR 15701), and can therefore be deleted.

[FR Doc. 2011–19248 Filed 7–28–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of U.S. Inventions

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Announcement is made of the availability for licensing of the invention set forth in U.S. Patent No. 7,799,536, which issued on September 21, 2010, entitled ''Endothelial-Monocyte Activating Polypeptide II, a Biomarker for Use in Diagnosis of Brain Injury,'' and U.S. Patent Application Serial No. 12/806,725, entitled ''Endothelial-Monocyte Avtivation Polypeptide II, a Biomarker for Use in Diagnosis and Treatment of Brain Injury,'' filed August 19, 2010. The United States Government, as represented by the Secretary of the Army, has rights to these inventions.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The inventions relate to the use of a polypeptide, Endothelial-monocyte activating polypeptide II (EMAP–II) and/or p43/endothelial monocyte-activating polypeptide II (p43/EMAP–II) as a biomarker to determine the presence and type of brain injury.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–19205 Filed 7–28–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, Defense Language Institute Foreign Language Center

AGENCY: Department of the Army, DOD.

ACTION: Notice; cancellation.

SUMMARY: The Board of Visitors, Defense Language Institute Foreign Language Center meeting scheduled for August 3 and 4, 2011 published in the **Federal Register** on Tuesday, July 5, 2011 (76 FR 39076) has been cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. Detlev Kesten, ATFL–APO, Monterey, CA 93944, *Detlev.kesten@us.army.mil,* (831) 242–6670.

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–19207 Filed 7–28–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Skagit River General Investigation Study (Previously Advertised as the Skagit River Flood Damage Reduction Study), Skagit County, WA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Seattle District, U.S. Army Corps of Engineers (USACE) will prepare a Draft Environmental Impact Statement (DEIS) pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, for a proposed flood-risk management project in the Skagit River Basin from Ross Dam to the river mouth at Skagit Bay. This study was requested by Skagit County, Washington, because of the potential for significant flooding on the Skagit River.

A DEIS is being prepared because of the potential for impacts on environmental resources, particularly salmonid habitat, and the intense public interest already demonstrated in addressing the flooding problems of the Skagit River.

The Skagit River General Investigation (GI) DEIS for the Skagit River Basin is being conducted under the authority of Section 209 of the Flood Control Act of 1962, Public Law 87–874. That section authorized a comprehensive study of Puget Sound, Washington, and adjacent waters including tributaries, in the interest of flood control, navigation, and other water uses and related land resources.

This notice of intent (NOI) was originally published in the **Federal Register** on November 20, 1997 for the Skagit River Flood Damage Reduction Study (62 FR 62019). A public meeting was held and comments were solicited from the public. Due to the amount of time that has lapsed since the issuance of the original NOI, USACE is reissuing the NOI.

DATES: Persons or organizations wishing to submit scoping comments should do so by August 29, 2011. Public comment may also be made at the scoping meeting August 10, 2011. Notification of scoping meeting times and locations will be sent to all agencies, organizations, and individuals on the project mailing list.

ADDRESSES: Requests for inclusion on the mailing list, future documents, and all comments on the proposed project should be sent to: Hannah Hadley, Study Environmental Coordinator, Seattle District, U.S. Army Corps of Engineers, P.O. 3755, Seattle, WA 98124–3755, ATTN: CENWS–PM–PL–ER; telephone (206) 764–6950; fax (206) 764–4470; or e-mail *Hannah.F.Hadley@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: General questions concerning the proposed action and the DEIS can be directed to: Hannah Hadley, Study Environmental Coordinator (see **ADDRESSES**) or Daniel Johnson, Project Manager, Seattle District, U.S. Army Corps of Engineers, P.O. 3755, Seattle, WA 98124–3755, ATTN: CENWS–EN–CM–CJ; telephone (206) 764–3423; fax (206) 764–4470; or e-mail *Daniel.E.Johnson@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Background. The Skagit River Basin is located in northwestern Washington State and encompasses 3,140 square miles. The major cities on the Skagit River delta—Mt. Vernon, Burlington, and Sedro Woolley—are located approximately 60 miles north of Seattle. The study area for the DEIS will be from Ross Dam to the river mouth at Skagit Bay.

The purpose of the Skagit River GI study is to better identify the problems and opportunities that exist to relieve flooding and reduce flood risks and to develop a flood-risk management plan that fits Federal law and policy and is within the capability of the local sponsor to support their required share of the project costs.

This is a single-purpose flood-risk management study. The goal of this project is to identify the National Economic Development (NED) plan, the flood-risk management alternative that provides the maximum net economic benefits. In accordance with USACE policy, minimization of ecosystem, cultural, and socio-economic impacts will be a significant project consideration (Reference: ER 1105–2–100, Planning Guidance Notebook). The local sponsor may request the recommendation of a plan other than the NED, the Locally Preferred Plan (LPP).

Since the issuance of the original NOI in 1997, the study has evolved to meet new challenges. The purpose of this NOI is to ensure the study still accurately reflects resource issues and concerns.

Alternatives. In the reconnaissance phase for the Skagit River GI study, USACE identified two alternative courses of action for further analysis which are outlined below.

Alternative 1—No Action: Allow the current levee system to remain in place without a major system-wide levee system upgrade. Individual diking districts would continue to operate, maintain, and repair the existing levee system, and dams on the Baker River and Skagit River would continue present operations for flood reduction.

Alternative 2: Construct a coordinated flood-risk management project that would provide critically needed flood-risk management measures at an affordable cost in a reasonable timeframe and that will subsequently be authorized and implemented.

Skagit County and USACE have developed an array of structural and nonstructural measures for addressing problems and opportunities and for achieving project objectives. In recent years, these measures have been presented to the public at several workshops in Skagit County and to resource and Tribal groups and agencies.

Some or all of the measures will be combined to form the range of alternatives. In the DEIS, the preferred alternative will be selected based on screening and evaluation of the range of alternatives.

Scoping. Public involvement will be sought during scoping, plan formulation, and preparation of the DEIS in accordance with NEPA procedures. A public scoping process has been started: (1) To clarify which issues appear to be major public concerns, (2) to identify any information sources that might be available to analyze and evaluate impacts, and (3) to obtain public input and determine acceptability for the range of measures to be included within potential alternatives.

This NOI formally commences the scoping process under NEPA. As part of the scoping process, all affected Federal, state, and local agencies; Tribes; the public; and other interested private organizations, including environmental groups, are invited to comment on the scope of the DEIS. Comments are requested regarding issues of concern, project alternatives, potential mitigation measures, probable significant environmental impacts, and permits or other approvals that may be required by any project.

The following key areas have been identified so far to be analyzed in depth in the DEIS:

1. Flooding characteristics (existing and with any project).
2. Impacts to fish habitat and fisheries resources.
3. Impacts to riparian habitat.
4. Impacts to wetlands.
5. Impacts to cultural resources.
6. Impacts to surrounding communities.
7. Impacts to geomorphic processes.

Scoping Meeting. Opportunity to comment on the planned study will also be available at the study scoping meeting and open house which is scheduled for 5 p.m. on August 10, 2011 at Skagit Station, 105 E. Kincaid St., Mt. Vernon, WA. Details of the meeting time and location will be announced in the local media. Notices will be sent to all

agencies, organizations, and individuals on the mailing list.

Availability of DEIS. USACE expects to complete preparation of the DEIS and make it available for public review by the fall of 2013.

Dated: July 21, 2011.

Anthony O. Wright,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 2011–19208 Filed 7–28–11; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Foreign Institutions—Federal Student Aid Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Announcement of submission date for calendar year 2010 U.S. Medical Licensing Examination (USMLE) and citizenship data by foreign graduate medical schools participating in the Title IV, HEA programs.

SUMMARY: We announce the submission date for the required submission to the Secretary by foreign graduate medical schools that participate in programs authorized under title IV of the Higher Education Act of 1965, as amended (the Title IV, HEA programs), of their students' scores on the U.S. Medical Licensing Examination (USMLE), and the school's citizenship rate (*i.e.,* the percentage of its students and recent graduates who are not U.S. citizens, nationals, or eligible permanent residents) for calendar year 2010. Foreign graduate medical schools must submit scores on the USMLE, earned during calendar year 2010 by each student and recent graduate, on Step 1, Step 2—Clinical Skills (Step 2–CS), and Step 2—Clinical Knowledge (Step 2–CK), together with the dates the student has taken each test, including any failed tests. In addition, unless they are statutorily exempt, foreign graduate medical schools must submit a statement of the foreign graduate medical school's citizenship rate for 2010, together with a description of the methodology used in deriving the rate.

DATES: Submission to the Secretary of scores on the USMLE and the statement of an institution's citizenship rate for the 2010 calendar year must be made no later than September 30, 2011.

FOR FURTHER INFORMATION CONTACT: For information contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502–7526. You may also e-mail your questions to: *Wendy.Macias@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) by contacting the person responsible for providing further information.

SUPPLEMENTARY INFORMATION: On November 1, 2010, the Department of Education (Department) published final regulations that included amendments to 34 CFR 600.55(d), which became effective on July 20, 2011 (75 FR 67170). Under 34 CFR 600.55(d), a foreign graduate medical school must submit the following data to the identified entities, including the Department, no later than April 30 of each year, unless the Secretary specifies a different date through a notice in the **Federal Register**:

(1) To its accrediting authority and, on request, to the Secretary, the scores on the Medical College Admission Test (MCAT) or successor examination, of all students admitted during the preceding calendar year who are U.S. citizens, nationals, or eligible permanent residents, together with a statement of the number of times each student took the examination.

(2) To its accrediting authority and, on request, to the Secretary, the percentage of students graduating during the preceding calendar year (including at least all graduates who are U.S. citizens, nationals, or eligible permanent residents) who obtain placement in an accredited U.S. medical residency program.

(3) To the Secretary, all scores, calculated in accordance with 34 CFR 600.55(f), disaggregated by step/test—*i.e.,* Step 1, Step 2—Clinical Skills (Step 2–CS), and Step 2—Clinical Knowledge (Step 2–CK), or the successor examinations—and attempt, earned during the preceding calendar year by each student and graduate on Step 1, Step 2–CS, and Step 2–CK, or the successor examinations, of the U.S. Medical Licensing Examination (USMLE), together with the dates the student has taken each test, including any failed tests (an institution may instead agree to allow the Educational Commission for Foreign Medical Graduates (ECFMG) or other responsible third party to calculate the rate and provide it directly to the Secretary, if such an option is available).

(4) To the Secretary, a statement of its citizenship rate for the preceding calendar year, calculated in accordance with 34 CFR 600.55(f)(1)(i)(A), together with a description of the methodology used in deriving the rate that is acceptable to the Secretary, unless the institution meets the statutory exemption from meeting the 60 percent citizenship threshold.

The Secretary is announcing in this notice a September 30, 2011, date for the submission to the Secretary of scores on the USMLE and the statement of an institution's citizenship rate for the 2010 calendar year. The Department will send a letter to foreign graduate medical schools providing information regarding the method of submission of the 2010 scores on the USMLE and the citizenship rate information.

The first submission of MCAT and residency placement data will be for data from the 2011 calendar year. For calendar year 2011 and subsequent calendar years, the submission date for USMLE scores and the statement of an institution's citizenship rate, as well as MCAT and residency placement data, is April 30 of the subsequent year, unless the Secretary specifies a different date through a notice in the **Federal Register**.

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.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *http://www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C. 1098a.

Dated: July 26, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–19265 Filed 7–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2011–OPE–0009]

Public Meeting on Recommendations for Improvement of Student Financial Aid Offer Forms, Development of Model Financial Aid Forms

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of public meeting; request for public comments.

SUMMARY: We will conduct a public meeting for interested parties to discuss and offer recommendations for improvements to student financial aid offer forms, as required by section 484 of the Higher Education Opportunity Act (HEOA).

To inform the discussion at the public meeting, we invite written comments on how to improve the information to be included in financial aid offer forms.

We announce the development of a Model Financial Aid Offer page on the Department of Education's Web site at—*http://www.ed.gov/policy/highered/guid/aid-offer/index.html.* This page presents information related to the Department's activities to carry out the HEOA requirement. This information includes sample financial aid award letter forms and award information for members of the public to respond to and comment upon through *Regulations.gov.*

DATES: The date, time, and location of the public meeting are listed in the **SUPPLEMENTARY INFORMATION** section of this notice. We must receive your written comments by August 26, 2011.

ADDRESSES: Submit your written comments through the Federal eRulemaking Portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time so that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to *http://www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''How to Use Regulations.gov'' in the ''Help'' section.

U.S. Mail, Commercial Delivery, or Hand Delivery. If you mail or deliver your comments on financial aid award letters, address them to Marty Guthrie, U.S. Department of Education, 1990 K Street, NW., Room 8042, Washington, DC 20006.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

You may inspect all public comments submitted for this public meeting by searching the public comments for docket ED–2011–OPE–0009 on Regulations.gov. You may also inspect the comments, in person, in room 8042, 1990 K Street, NW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Eastern Standard Time, Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marty Guthrie, U.S. Department of Education, 1990 K Street, NW., Room 8042, Washington, DC 20006, or by phone at (202) 219–7031. You may also e-mail your questions about the public meeting to: *Marty.Guthrie@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) by contacting the person responsible for information about the public meeting.

SUPPLEMENTARY INFORMATION:

I. Background

Section 484 of the HEOA, Public Law 110–315, requires the Secretary to convene a group to make recommendations to improve financial aid offer forms. The group must include students, families of students, secondary school guidance counselors, representatives of institutions of higher education (including financial aid administrators, registrars, and business officers), and nonprofit consumer groups.

The group's meeting will be held on September 13, 2011, from 9:00 a.m. to 4:00 p.m. at the U.S. Department of Education, 1990 K Street, NW., Eighth Floor Conference Center, Washington, DC 20006. We will conduct an overview and a panel discussion on financial aid award offer letters and related issues during the morning session. We will randomly separate attendees into small groups for the afternoon session. All attendees will be invited to participate in a small group discussion. Each small group will be given a set of questions to discuss. Results from the small group meetings will be reported to participants to conclude the public meeting.

We encourage persons interested in attending and participating in the meeting to register by 5:00 p.m. on September 7, 2011. Register by sending an e-mail to *ModelAidOffer@ed.gov.* The e-mail should include the name, address, telephone, and e-mail contact information for the individual, as well as the constituency or interest group that the individual represents. We will accept walk-in registrations to the extent space permits.

II. HEOA Requirements for Model Financial Aid Offer Form

The HEOA requires that the recommendations for improving the model financial aid offer form present the following material in a consumer-friendly manner that is simple and understandable:

(1) Information on the student's cost of attendance, including tuition and fees, room and board costs, books and supplies, and transportation.

(2) The amount of financial aid that the student does not have to repay, such as scholarships, grants, and work-study assistance, offered to the student for such year, and the conditions of such financial aid.

(3) The types and amounts of loans under part B, D, or E of title IV of the Higher Education Act of 1965, as amended, for which the student is eligible for such year, and the applicable terms and conditions of such loans.

(4) The net amount that the student, or the student's family on behalf of the student, will have to pay for the student to attend the institution for such year, equal to—

(A) The cost of attendance for the student for such year; Minus.

(B) The amount of financial aid described in paragraphs (2) and (3) that is offered in the financial aid offer form.

(5) Where a student or the student's family can seek additional information regarding the financial aid offered.

(6) Any other information the Secretary of Education determines necessary so that students and parents can make informed student loan borrowing decisions.

III. Proposed Issues for Discussion

We propose that answers to the following questions be used to develop recommendations for improving the model financial aid offer form:

(1) What is the most important change to improve financial aid offer letters?

(2) How can we make clear the bottom line cost that the student must pay?

(3) How can we ensure that the student understands what is included in the cost of attendance?

(4) How can we help the student clearly identify ''free'' (grant and scholarship) money?

(5) Would it be useful to offer additional details on an accompanying information sheet to maintain a comprehensible format?

IV. Model Financial Aid Format Required

After a review of the public comments and using the group's recommendations, the Secretary must develop a model format for financial aid offer forms. In addition, the Secretary must submit recommendations resulting from the review of the public comments and from the public meeting to the Congressional authorizing committees. Finally, the Secretary is required to make the recommendations and the model financial aid offer format widely available. We will publish these items on the Internet at the Department's Model Financial Aid Offer page.

V. Comments

We are holding this public meeting for interested parties to discuss and offer recommendations for improvements to financial aid offer forms. In addition, interested parties may offer comments based on personal knowledge or experience working with financial aid offer forms, as well as comments based on the information on the Model Financial Aid Offer Web page.

The deadline for submitting comments related to this public meeting is August 19, 2011.

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.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *http://www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 26, 2011.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2011–19267 Filed 7–28–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Grant Partially Exclusive License Between the National Energy Technology Laboratory and Envired Systems

AGENCY: National Energy Technology Laboratory, Department of Energy.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: The National Energy Technology Laboratory (NETL), on behalf of the Department of Energy (DOE), hereby gives notice of its intent to grant a partially exclusive license to practice the inventions described and claimed in U.S. Patent No 6,908,497, issued June 21, 2005, titled ''Solid sorbents for removal of carbon dioxide from gas streams at low temperatures,'' to Envired Systems, having its principal place of business in Newton, MA. The inventions are owned by United States of America, as represented by DOE.

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than August 10, 2011. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective exclusive license may be submitted to the Office of Chief Counsel, National Energy Technology Laboratory, 3610 Collins Ferry Rd., P.O. Box 880, Morgantown, WV 26506 or via facsimile at (412) 386–5949. Comments relating to the prospective exclusive license may be submitted to the Technology Transfer Program, U.S. Department of Energy, National Energy Technology Laboratory, 626 Cochrans Mills Rd., P.O. Box 10940, Pittsburgh, PA 15236 or via facsimile at (412) 386–5920.

FOR FURTHER INFORMATION CONTACT: Jessica Sosenko, Technology Transfer Program Manager, U.S. Department of Energy, National Energy Technology Laboratory, 626 Cochrans Mills Rd., P.O. Box 10940, Pittsburgh, PA 15236; Telephone (412) 386–7417; *E-mail: jessica.sosenko@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 35 U.S.C. 209(c), DOE is authorized to grant exclusive or partially exclusive licenses in inventions managed by DOE on behalf of the United States where it determines that, among other things, the desired practical application of the invention has not been achieved, or is not likely to be expeditiously achieved, under a nonexclusive license. The statute and implementing regulations (37 CFR part 404) require that this determination be made after public notice and opportunity for filing written objections.

Envired Systems, a new small business, has applied for a partially exclusive license to practice the inventions and has a plan for commercialization of the invention. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 15 days of publication of this notice the NETL Technology Transfer Manager (contact information listed above), receives in writing any of the following, with supporting documentation:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in which the applicant states that it already has brought the invention to practical application or is likely to expeditiously bring the invention to practical application.

The proposed license will be partially exclusive, subject to a license and other rights retained by the United States, and subject to a negotiated royalty. The exclusive fields of use are: Indoor air and human occupied space, including all heating, ventilation and air-conditioning applications; and indoor air quality applications, including all air quality and air treatment in buildings, houses, shelters, vehicles, vessels, aircraft, storage, refrigeration facilities, greenhouses, and the like. DOE will review all timely written responses to this notice, and will grant the license if, after expiration of the 15-day notice period and consideration of any written responses to this notice, it determines in accordance with 35 U.S.C. 209(c) that the license is in the public interest.

This notice is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i).

Dated: July 22, 2011.

Scott Klara,

Deputy Director, National Energy Technology Laboratory.

[FR Doc. 2011–19307 Filed 7–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES: Monday, August 15, 2011, 4 p.m.–6 p.m.

LOCATION: Teleconference.

FOR FURTHER INFORMATION CONTACT: Amy Bodette, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586–0383 or facsimile (202) 586–1441; *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary.

Purpose of the Meeting: The Natural Gas subcommittee will present an interim report to the Board.

Tentative Agenda: The meeting will start at 4 p.m. on August 15th. The meeting agenda includes presentation of an interim report from the Natural Gas Subcommittee and discussion of the recommendations. A draft of the report will be made available at *http://www.shalegas.energy.gov* and *http://www.energy.gov/seab* no later than Thursday, August 11, 2011. The meeting will conclude at 6 p.m.

Public Participation: The meeting will be conducted by teleconference and is open to the public. Individuals who would like to call-in must RSVP to Amy Bodette no later than 5 p.m. on Wednesday, August 10, 2011 at *seab@hq.doe.gov.* There will be a limited number of call-in ports and RSVP is required to obtain dial-in information. Call-in ports will be made available to members of the public on a first come, first served basis. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the meeting on Monday, August 15, 2011. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. Public Comment will be available on a first come, first served basis and will be queued by the call operator. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Those not able to call in to the meeting or have insufficient time to address the committee are invited to send a written statement to Amy Bodette, U.S. Department of Energy 1000 Independence Avenue, SW., Washington DC 20585, e-mail to *seab@hq.doe.gov.* Timely comments may also be posted online at *http://www.shalegas.energy.gov.*

Minutes: The minutes of the meeting will be available on the SEAB Web site *http://www.energy.gov/SEAB* or by contacting Ms. Bodette. She may be reached at the postal address or e-mail address above.

Issued in Washington, DC on July 26, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–19242 Filed 7–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Draft Site-Wide Environmental Impact Statement for the Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations in the State of Nevada

AGENCY: National Nuclear Security Administration, U.S. Department of Energy.

ACTION: Notice of availability and public hearings.

SUMMARY: The National Nuclear Security Administration (NNSA), a separately organized semi-autonomous agency within the U.S. Department of Energy (DOE), announces the availability of the *Draft Site-Wide Environmental Impact Statement for the Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations in the State of Nevada* (Draft SWEIS, DOE/EIS–0426D) for public review, as well as the locations, dates and times for public hearings. The Draft SWEIS for the continued management and operation of the Nevada National Security Site (NNSS) (formerly known as the Nevada Test Site) and other NNSA-managed sites in Nevada, including the Remote Sensing Laboratory (RSL) on Nellis Air Force Base, the North Las Vegas Facility (NLVF), and the Tonopah Test Range (TTR) on the U.S. Air Force Nevada Test and Training Range, analyzes the potential environmental impacts for three alternatives: No Action Alternative, Expanded Operations Alternative and Reduced Operations Alternative. Each alternative comprises current and reasonably foreseeable activities at the NNSS and the three offsite locations.

The Council on Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) implementing regulations allow an agency to identify its preferred alternative or alternatives, if one or more exists, in a draft EIS (40 CFR 1502.14[e]). NNSA has not currently identified a preferred alternative; however, a preferred alternative will be identified in the Final SWEIS.

The U.S. Air Force, U.S. Bureau of Land Management, and Nye County, Nevada, are cooperating agencies in the preparation of this Draft SWEIS. In addition, the Consolidated Group of Tribes and Organizations, which include representatives from 17 Tribes and organizations, participated in its preparation.

DATES: NNSA invites comments on the Draft SWEIS during the public comment period which ends October 27, 2011. NNSA will consider comments received after this date to the extent practicable as it prepares the Final SWEIS.

NNSA will hold five public hearings on the Draft SWEIS. Locations, dates and times are provided in the **SUPPLEMENTARY INFORMATION** portion of this notice under ''Public Hearings and Invitation To Comment''.

ADDRESSES: The Draft SWEIS and its reference material are available for review on the NNSA/NSO Web site at: *http://nnsa.energy.gov/nepa.* Written comments on the Draft SWEIS should be submitted to Ms. Linda Cohn, SWEIS Document Manager, NNSS Nevada Site Office, U.S. Department of Energy, P.O. Box 98518, Las Vegas, Nevada 89193–8518. Comments may also be submitted by facsimile to 702–295–5300, by telephone at 1–877–781–6105 or on the Internet at *http://www.nnsa.energy.gov/nepa.* Please title correspondence ''Draft SWEIS Comments.''

The Draft SWEIS and references are also available for review at the reading rooms listed in the **SUPPLEMENTARY INFORMATION** portion of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the Draft SWEIS, including requests for copies of the document, should be directed to Ms. Linda Cohn by contact

methods shown above under **ADDRESSES**. Copies of the Draft SWEIS are also available for review at the locations listed under:

For general information regarding the DOE NEPA process, contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; by telephone at 202–586–4600 or leave a message at 1–800–472–2756; by electronic mail at *askNEPA@hq.doe.gov;* or by facsimile at 202–586–7031. Additional information regarding DOE NEPA activities is available on the Internet through the DOE NEPA Web site at *http://nepa.energy.gov.*

SUPPLEMENTARY INFORMATION:

Background

The NNSS has a long history of supporting national security objectives by conducting underground nuclear tests and other nuclear and nonnuclear activities. Since October 1992, there has been a moratorium on underground nuclear testing. Thus, the NNSA's primary missions at the NNSS are supporting nuclear stockpile reliability, maintaining readiness and the capability to conduct underground nuclear weapons tests, if so directed by the President; DOE waste management activities, including disposal of low-level and mixed low-level waste; environmental restoration activities; and providing a safe and secure environment for conducting research, development, and testing activities related to national security. Accordingly, the NNSA mission-associated programs in Nevada are (1) the National Security/Defense Mission, which includes the Stockpile Stewardship and Management, Nuclear Emergency Response, Nonproliferation and Counterterrorism, and Work for Others Programs; (2) the Environmental Management Mission, which includes the Waste Management and Environmental Restoration Programs; and (3) the Nondefense Mission, which includes the General Site Support and Infrastructure, Energy Conservation and Renewable Energy, and Other Research and Development Programs.

The NNSS occupies approximately 1,360 square miles of desert and mountain terrain in southern Nevada. About 6,500 square miles of the U.S. Air Force's Nevada Test and Training Range and the Fish and Wildlife's Desert National Wildlife Refuge surround the NNSS on the northern, western, and eastern sides. The NNSS is bordered on the south by federal land managed by the Bureau of Land Management. NNSS is a multi-disciplinary, multi-purpose facility primarily engaged in work that supports national security, homeland security initiatives, waste management, environmental restoration, and defense and nondefense research and development programs for DOE, NNSA, and other government entities. At the NNSS, activities are undertaken in one or more land use zones. The land use zones are used to manage activities at the NNSS and prevent interference among the various projects and activities.

RSL is located on 35 acres at Nellis Air Force Base in Las Vegas. Radiological emergency response, the Aerial Measuring System, radiological sensor development and testing, Secure Systems Technologies, nuclear nonproliferation capabilities, and information and communication technologies are supported at RSL.

NLVF, located on 78 acres in North Las Vegas, comprises 29 buildings that support ongoing NNSS missions. The Facility includes office buildings, a high bay, machine shop, laboratories, experimental facilities, and various other mission-support facilities.

The TTR consists of a 280-square-mile area on the Nevada Test and Training Range. NNSA operations at the TTR include flight-testing of gravity weapons (bombs), and research, development, and evaluation of nuclear weapons components and delivery systems.

DOE issued its previous site-wide NEPA analyses for the Department's activities in Nevada in 1996 (the *Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada*) (1996 NTS EIS, DOE/EIS–0243), and an associated Record of Decision (ROD) (61 FR 65551). In the ROD, DOE selected the Expanded Use Alternative for most activities, but decided to manage low-level radioactive waste and mixed low-level radioactive waste at levels described under the No Action Alternative, pending decisions resulting from DOE'S *Final Waste Management Programmatic Environmental Impact Statement for Managing Treatment, Storage, and Disposal of Radioactive and Hazardous Waste* (WM PEIS, DOE/EIS–0200). In the February 2000 WM PEIS ROD (65 FR 10061), DOE announced that the NNSS would be one of two regional sites to be used for disposal of low-level radioactive waste and mixed low-level radioactive waste. At the same time, DOE amended the 1996 NTS EIS ROD to select the Expanded Use Alternative for waste management activities at the NNSS.

In 2007, NNSA initiated a review of the 1996 NTS EIS and, in April 2008, issued the *Draft Supplement Analysis for the Final Environmental Impact Statement for the Nevada Test Site and Off-Site Locations in the State of Nevada* (DOE/EIS–0243–SA–03). Based on consideration of comments received on this draft supplement analysis, potential changes to the NNSS program work scope, and changes to the environmental baseline, NNSA decided to prepare this Draft SWEIS.

Alternatives

NNSA has prepared the Draft SWEIS in accordance with the NEPA, the CEQ regulations that implement the procedural provisions of NEPA (40 Code of Federal Regulations [CFR] Parts 1500–1508), and DOE's NEPA implementing procedures (10 CFR part 1021). In this Draft SWEIS, NNSA analyzes the potential environmental impacts of three alternatives: (1) No Action, (2) Expanded Operations, and (3) Reduced Operations.

No Action Alternative

The No Action Alternative is analyzed as a baseline for evaluating the two action alternatives. This alternative would continue implementation of the 1996 NTS EIS ROD (DOE/EIS–0243) and subsequent amendments (61 CFR 6551 and 65 FR 10061), as well as other decisions supported by separate NEPA analyses completed since issuance of the final 1996 NTS EIS, and reflects activity levels consistent with those seen since 1996.

Under the No Action Alternative, Stockpile Stewardship and Management Program activities would continue at NNSA facilities in Nevada under the conditions of the ongoing nuclear testing moratorium. These activities would include science-based stockpile stewardship tests, experiments, and projects to maintain the safety and reliability of the nation's nuclear weapons stockpile without underground nuclear testing.

In support of the Nuclear Emergency Response and Nonproliferation and Counterterrorism Programs, under the No Action Alternative, NNSA would continue to (1) provide support to the Nuclear Emergency Support Team, the Federal Radiological Monitoring and Assessment Center, the Accident Response Group, and the Radiological Assistance Program; (2) undertake Aerial Measuring System activities; (3) provide emergency responder training for emergencies involving weapons of mass destruction; (4) disposition improvised nuclear devices; (5) support NNSA's Emergency Communications

Network; and (6) integrate existing activities and facilities to support national efforts to control the spread of weapons of mass destruction.

Under the No Action Alternative, the Work for Others Program hosted by NNSA would entail the shared use of certain facilities and areas, such as the Big Explosives Experimental Facility, Nonproliferation Test and Evaluation Complex, and the T–1 Training Area, by other agencies such as the Department of Defense, as well as the shared use of resources at the NNSS, RSL, NLVF, and the TTR. NNSA also would continue to host projects of other Federal agencies, such as the U.S. Departments of Defense and Homeland Security, as well as state and local government agencies and nongovernmental organizations.

As part of the Environmental Management Mission, Waste Management Program, the NNSS would continue accepting and disposing of wastes, such as low-level radioactive waste and mixed low-level radioactive waste. The Environmental Restoration Program would continue to ensure compliance with the Federal Facility Agreement and Consent Order to characterize, monitor, and, if necessary, remediate contaminated areas, facilities, soils, and groundwater that have sustained adverse environmental impacts.

The Nondefense Mission would continue to include those activities that are necessary to support mission-related programs, such as construction and maintenance of facilities, provision of supplies and services, and warehousing. Activities related to energy conservation and supply, including renewable energy and other research and development projects, also would continue to be conducted. For example, NNSA would continue to identify and implement energy conservation measures and projects related to energy efficiency, renewable energy, water, and transportation/fleet management. NNSA also would support development of a 240 megawatt commercial solar power facility and an associated transmission line in the southwest corner of the NNSS, if proposed by commercial entities.

Expanded Operations Alternative

The Expanded Operations Alternative includes the level of operations, capabilities and projects described under the No Action Alternative, plus additional proposed activities. These additional projects include modification and/or expansion of existing facilities and construction of new facilities. In addition, some ongoing activities would be conducted more frequently than under the No Action Alternative.

Under the Expanded Operations Alternative the annual number of stockpile stewardship tests and experiments and the yearly number of nuclear weapons that would be dispositioned would increase relative to the No Action Alternative. NNSA would construct new facilities to support enhanced training for the Office of Secure Transportation, enhance efforts to control the spread of weapons of mass destruction, advance counterterrorism training, and research and development. Although the pace of environmental restoration activities would remain unchanged from that of the No Action Alternative, NNSA would accelerate the pace and amount of low-level and mixed low-level radioactive waste that would be disposed of on the NNSS.

Under this alternative, there would be two changes to land use zones at the NNSS:

(1) The designated use of one operational area in the northeast portion of the NNSS would be changed from ''Reserved'' to ''Research, Test, and Experiment,'' and

(2) Approximately 36,900 acres within another operational area in the southwest portion of the NNSS would be designated as a Renewable Energy Zone (an expansion of the 4,100-acre area under the No Action Alternative). In the Renewable Energy Zone, NNSA would support development of several commercial solar power facilities with a maximum combined generating capacity of 1,000 megawatts. NNSA would construct a 5-megawatt photovoltaic solar power facility at the main NNSS support area and a geothermal energy demonstration project and research center.

Reduced Operations Alternative

The Reduced Operations Alternative includes all of the types of activities conducted at the NNSS and offsite locations since 1996. The activity level under the Reduced Operations Alternative would vary across programs, but for many programs the level of operations would be reduced. Furthermore, under the Reduced Operations Alternative, activities would cease in the northwestern portion of the NNSS with the exception of environmental restoration and monitoring, site security operations, military training and exercises, maintenance of Well 8, and critical communications and electrical transmission systems. Maintenance of roads on Pahute Mesa, Stockade Wash, and Buckboard Mesa would also be terminated, and operations at the Pahute Mesa Airstrip would be limited to those necessary to provide access for activities that would continue in these areas. A portion of the electrical transmission and distribution system would be de-energized.

The pace of environmental restoration activities and most waste generation and disposal rates would remain unchanged from those of the No Action Alternative. However, the amount of transuranic waste generated, and the amount of sanitary solid waste generated and disposed of onsite would be reduced.

Under the Reduced Operations Alternative, activities related to supply and conservation of energy, including renewable energy and other research and development projects, would continue to be conducted, but at a reduced scale compared to other alternatives. For example, NNSA would support development of a 100-megawatt commercial solar power facility. In the northwest portion of the NNSS land use designations would change to a Limited Operations Zone.

Public Hearings and Invitation to Comment

NNSA will hold five public meetings/hearings at the following locations, dates and times:

- Las Vegas, Nevada, September 20, 2011 from 5–8 p.m. at Cashman Center, 850 Las Vegas Boulevard North, Las Vegas, NV.
- Pahrump, Nevada, September 21, 2011 from 5–8 p.m. at The Nugget Hotel, 681 Highway 160, Pahrump, NV.
- St. George, Utah, September 22, 2011 from 5–8 p.m. at Courtyard By Marriott, 185 South 1470 East, St. George, UT.
- Tonopah, Nevada, September 27, 2011 from 5–8 p.m. at Tonopah Convention Center, 301 Brougher Ave., Tonopah, NV.
- Carson City, NV, September 28, 2011, 5–8 p.m., at the Carson Nugget, 800 North Carson Street, Carson City, NV.

The public hearings will begin with an open-house format with subject matter experts from NNSA available to answer questions on the NNSA programs and the Draft SWEIS. The public hearing portion of the meeting will run from 6:30 p.m. through 8 p.m. Individuals who wish to speak may sign up at the door. Members of the public are invited to attend the hearings at their convenience any time during hearing hours and submit their comments in writing, or in person to a court reporter. Written comments on the Draft SWEIS also may be submitted to the address shown above under

ADDRESSES, by facsimile to 702–295–5300, by telephone at 1–877–781–6105 or on the Internet at *http://nnsa.energy.gov*.

The Draft SWEIS and its reference material are available for review on the NNSA/NSO Web site at: *http://nnsa.energy.gov* and at the following reading rooms:

Amargosa Valley Library, 829 East Farm Road, Amargosa, Nevada 89020, *Phone:* (775) 372–5340.

Beatty Library District, 400 North Fourth Street, Beatty, Nevada 89003, *Phone:* (775) 553–2257.

Clark County Library, 1401 East Flamingo Road, Las Vegas, Nevada 89119, *Phone:* (702) 507–3400.

Green Valley Library, 2797 North Green Valley Parkway, Henderson, Nevada 89014, *Phone:* (702) 507–3790.

Indian Springs Library, 715 Gretta Lane, Indian Springs, Nevada 89018, *Phone:* (702) 879–3845.

Kingman Public Library, 3269 North Burbank Street, Kingman, Arizona, 86402, *Phone:* (928) 692–2665.

Las Vegas Library, 833 North Las Vegas Boulevard, Las Vegas, Nevada 89101, *Phone:* (702) 507–3500.

Lincoln County Library, 93 Main Street, Pioche, Nevada 89043, *Phone:* (775) 962–5244.

Nevada State Library and Archives, 100 Stewart Street, Carson City, Nevada 89701, *Phone:* (775) 684–3360.

North Las Vegas Library, Main Branch, 2300 Civic Center Drive, North Las Vegas, Nevada 89030, *Phone:* (702) 633–1070.

Pahrump Community Library, 701 South East Street, Pahrump, Nevada 89048, *Phone:* (775) 727–5930.

Atomic Testing Museum, Public Reading Room for the Nuclear Testing Archive, 755C East Flamingo, Las Vegas, Nevada 89119, *Phone:* (702) 794–5161.

Rainbow Library, 3150 North Buffalo Drive, Las Vegas, Nevada 89128, *Phone:* (702) 507–3710.

Reno–Downtown Library, 301 South Center Street, Reno, Nevada 89501, *Phone:* (775) 785–4522.

St. George Library, 88 West 100 South, St. George, Utah 84770, *Phone:* (435) 634–5737.

Summerlin Library, 1771 Inner Circle Drive, Las Vegas, Nevada 89134, *Phone:* (702) 507–3860.

Tonopah Library, 167 Central Street, Tonopah, Nevada 89049, *Phone:* (775) 482–3374.

University of Nevada Las Vegas Lied Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154, *Phone:* (702) 895–2100.

Following the end of the public comment period on the Draft SWEIS described above, the NNSA will consider and respond to comments received during the comment period in the *Final Site-Wide Environmental Impact Statement for the Continued Operation of the Department of Energy/National Nuclear Security Administration Nevada National Security Site and Off-Site Locations in the State of Nevada*. NNSA decision-makers will consider the environmental impact analysis presented in the Final document as well as public comments and other information, in making decisions related to the Final SWEIS.

Signed in Washington, DC, on July 20, 2011.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2011–18847 Filed 7–28–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2014 Resource Pool; Loveland Area Projects, Proposed Power Allocation

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Power Allocation.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency within the Department of Energy, has announced its Post-2014–Loveland Area Projects (LAP) Resource Pool Proposed Power Allocation developed under the requirements of the Power Marketing Initiative of Western's Energy Planning and Management Program (Program).

Western notified the public of allocation procedures and called for applications on December 17, 2010. Applications were accepted at Western's Rocky Mountain Customer Service Region until 4 p.m. MST, March 4, 2011. Review of the applications received resulted in this Notice of Proposed Power Allocation.

DATES: The comment period on this Notice of Proposed Power Allocation begins today and ends at 4 p.m. on September 12, 2011. To be assured of consideration, Western must receive all written comments by the end of the comment period. Western will hold a public information and comment forum about the Proposed Power Allocation on Thursday, August 25, 2011, at 1:30 p.m. M.D.T (see **ADDRESSES** section for the forum location).

ADDRESSES: Send written comments to: Mr. Bradley S. Warren, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986. Comments may be delivered by certified mail, commercial mail, e-mail *POST2014LAP@wapa.gov,* or fax (970) 461–7204.

Information about the Post-2014 Resource Pool–Loveland Area Projects allocation procedures, including comments, letters, and other supporting documents, is available for public inspection and copying at the Rocky Mountain Customer Service Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986. Background information can also be found at *http://www.wapa.gov/rm/PMcontractRM/Post2014.html.*

A public information and comment forum on the Proposed Power Allocation will be held on Thursday, August 25, 2011, from 1:30–4:30 p.m. M.D.T., at the Embassy Suites Hotel, Spa and Conference Center, 4705 Clydesdale Parkway, Loveland, CO 80538; telephone number (970) 593–6200.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Swails, Public Utilities Specialist, (970) 461–7339, or Ms. Melanie Reed, Contracts and Energy Services Manager, (970) 461–7229. Written requests for information should be sent to Rocky Mountain Customer Service Region, Western Area Power Administration, Attn: J6200, P.O. Box 3700, Loveland, CO 80539–3003.

SUPPLEMENTARY INFORMATION: Western published the Post-2014 Resource Pool–Loveland Area Projects, Allocation Procedures and Call for Applications (75 FR 78988) on December 17, 2010, to implement Subpart C–Power Marketing Initiative of the Program's Final Rule, 10 CFR part 905, published at 60 FR 54151. The Program, developed in part to implement Section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. The Program establishes project-specific power resource pools and the allocation of power from these pools to new preference customers. The allocation procedures, in conjunction with the General Power Marketing and Allocation Criteria (51 FR 4012, January 31, 1986), establish the framework for allocating power from the LAP resource pool.

Western seeks comments relevant to the Proposed Power Allocation during the comment period. After considering public comments, Western will publish the Final Power Allocation in the **Federal Register**.

I. Post-2014 Pool Resources

Western will allocate up to 1 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2014. The amount of the resource that will become available on October 1, 2014, is approximately 6.9 megawatts (MW) for the summer season and 6.1 MW for the winter season, and associated energy. This resource pool will be created by reducing existing customers' allocations by up to 1 percent.

II. Proposed Power Allocation

In response to the call for applications, Western received seven applications for the Post-2014 LAP Resource Pool. Western determined that one applicant does not meet the Post-2014 LAP Resource Pool General Eligibility Criteria. The resource pool for capacity and energy will be allocated proportionately by season to the six qualified applicants based on average seasonal loads for the period October 2009 through September 2010. The proposed allocations for the six qualified allottees are shown in the table below and are subject to the minimum (100 kilowatts) and maximum allocation (5,000 kilowatts) criteria.

Allottees	Proposed Post-2014 LAP Resource Pool Power Allocation			
	Summer kilowatt hours	Winter kilowatt hours	Summer kilowatts	Winter kilowatts
City of Jetmore, Kansas	458,186	301,817	280	201
City of Pomona, Kansas	355,544	254,622	217	169
City of Waterville, Kansas	257,578	191,505	157	127
Doniphan Electric Cooperative Association, Inc	859,388	839,671	526	558
Kaw Valley Electric Cooperative, Inc	7,156,517	5,561,057	4,374	3,697
Nemaha-Marshall Electric Cooperative Association, Inc	2,215,224	1,957,478	1,354	1,301
Total Resource Pool	11,302,437	9,106,150	6,908	6,053

By June 1, 2014, each allottee must have firm delivery arrangements in place, to be effective October 1, 2014, unless otherwise agreed to in writing by Western. Western must receive a letter of commitment from each allottee's serving utility or transmission provider by June 1, 2014, confirming that the allottee will be able to receive the benefit of Western's Post-2014 LAP Resource Pool Power Allocation. If Western does not receive the commitment letter by June 1, 2014, unless otherwise agreed in writing by Western, Western will withdraw its offer of an allocation.

Western does not own transmission in Kansas. Final allocation of the Post-2014 LAP Resource Pool is contingent upon Western's contractual arrangements for delivery of Federal power into Kansas.

The proposed allocations shown in the table above are based on the LAP marketable resource currently available. If the LAP marketable resource is adjusted in the future, all allocations may be adjusted accordingly.

III. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western received approval from the Office of Management and Budget to collect the Applicant Profile Data under control number 1910–5136, which was used to develop this Proposed Power Allocation.

IV. Review Under the National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Dated: July 22, 2011.

Timothy J. Meeks,

Administrator.

[FR Doc. 2011–19304 Filed 7–28–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9445–3]

Proposed Administrative Settlement Agreement Under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act for the Landfill and Development Superfund Site, Located in Burlington County, NJ

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Administrative Settlement and Opportunity for Public Comment.

SUMMARY: The United States Environmental Protection Agency (''EPA'') is proposing to enter into an administrative settlement agreement (''Settlement Agreement'') with SC Holdings, Inc. and Waste Management of New Jersey, Inc. (the ''Settling Parties'') pursuant to Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9622(h). The Settlement Agreement provides for Settling Parties' payment of certain past costs incurred at the Landfill and Development, Inc. (''Landfill and Development'') Superfund Site, located in Burlington County, New Jersey (''Site''). The Settlement Agreement also provides for the payment of certain future response costs incurred at the Site.

In accordance with Section 122(i) of CERCLA, 42 U.S.C. 9622(i), this notice is being published to inform the public of the proposed Settlement Agreement and of the opportunity to comment. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Settlement Agreement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, 17th floor New York, New York 10007–1866.

DATES: Comments must be provided by August 29, 2011.

ADDRESSES: Comments should reference the Landfill and Development Superfund Site, EPA Docket No. CERCLA–02–2010–2005 and should be sent to the U.S. Environmental Protection Agency, Region 2, Office of Regional Counsel, New Jersey

Superfund Branch, 290 Broadway—17th Floor, New York, NY 10007.

SUPPLEMENTARY INFORMATION: A copy of the proposed administrative settlement, as well as background information relating to the settlement, may be obtained from William J. Reilly, Jr., Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, 17th Floor, 290 Broadway, New York, New York 10007–1866. *Telephone:* 212–637–3154.

FOR FURTHER INFORMATION CONTACT: William J. Reilly, Jr., Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, 17th Floor, 290 Broadway, New York, New York 10007–1866. *Telephone:* 212–637–3154.

Dated: June 24, 2011.

Walter Mugdan,

Director, Emergency and Remedial Response Division.

[FR Doc. 2011–19145 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2011–0150; FRL–9446–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; Establishing No-Discharge Zones Under Clean Water Act Section 312 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2011. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 27, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2008–0150, by the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: OW–Docket@epa.gov.*
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. 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–OW–2008–0150. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Chris Laabs, Oceans and Coastal Protection Division, Environmental Protection Agency, 4504T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone:* 202–566–1223; *fax number:* 202–566–1546; *e-mail address: laabs.chris@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID no. EPA–HQ–OW–2008–0150, which is available for online viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

(1) Explain your views as clearly as possible and provide specific examples.

(2) Describe any assumptions that you used.

(3) Provide copies of any technical information and/or data you used that support your views.

(4) If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

(5) Offer alternative ways to improve the collection activity.

(6) Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number of EPA–HQ–OW–2008–0150 in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected Entities: Entities potentially affected by this action are state, local, and Tribal governments.

Title: Establishing No-Discharge Zones Under Clean Water Act Section 312 (Renewal).

ICR Numbers: EPA ICR No. 1791.06, OMB Control No. 2040–0187.

ICR Status: This ICR is scheduled to expire on December 31, 2011. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: (A) *Sewage No-discharge Zones:* The need for EPA to obtain information for the establishment of no-discharge zones (NDZs) for vessel sewage in state waters stems from CWA sections 312(f)(3), (f)(4)(A), and (f)(4)(B), and subsequent regulations at 40 CFR 140.4(a–c). No-discharge zones are established to provide state and local governments with additional protection of waters from treated or untreated vessel sewage. This ICR discusses the information requirements associated with the establishment of NDZs for vessel sewage. The information collection activities discussed in this ICR do not require the submission of any confidential information.

(B) *UNDS No-discharge Zones:* Under section 312(n) of the Clean Water Act (''Uniform National Discharge Standards for Vessels of the Armed Forces'' or ''UNDS'') no-discharge zones (''NDZs'') for discharges from Armed Forces vessels may be established by either state prohibition or EPA prohibition following the procedures in 40 CFR part 1700. UNDS also provides that the Governor of any state may petition EPA and the Secretary of Defense to review any determination or standard promulgated under the UNDS program if there is significant new information that could reasonably result in a change to the determination or standard. This ICR discusses the information that will be required from a state if it decides to establish a NDZ by state prohibition or apply for a NDZ by EPA prohibition, and the information that will be required from a state if it decides to submit a petition for review. The responses to this collection of information are required to obtain the benefit of an UNDS NDZ or a review of an UNDS determination or standard (see 33 U.S.C. 1322(n)). The information collection activities discussed in this ICR do not require the submission of any confidential information.

Burden Statement

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

- *Estimated total number of potential respondents:* 16.
- *Frequency of response:* Annual.
- *Estimated total average number of responses for each respondent:* 1.
- *Estimated total annual burden hours:* 2,207.5 hours.
- *Estimated total annual costs:* $103,459.

This includes an estimated burden cost of $101,159 and an estimated cost of $2,300 for capital investment or maintenance and operational costs. The estimate includes time for gathering information, and preparing and submitting requests. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Are there changes in the estimates from the last approval?

Estimates have been updated with current state and Federal labor costs.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: July 21, 2011.

Denise Keehner,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 2011–19294 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8998–2]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 07/18/2011 Through 07/22/2011

Pursuant to 40 CFR 1506.9.

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has included its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20110235, Draft EIS, DOE, WA, Klickitat Hatchery Complex Program, Proposed Changes to Production Programs for Four Anadromous Fish Species, Klictitat River Subbasin, Klickitat and Yakima Counties, WA, *Comment Period Ends:* 09/12/2011, *Contact:* Hannah Dondy-Kaplan 503–230–4071.

EIS No. 20110236, Draft EIS, FTA, GA, Tier 1—Atlanta Beltline City of Atlanta, Proposed Fixed Guideway Transit and Multi-Use Trails System, Right-of-Way Preservation, Fulton County, GA, *Comment Period Ends:* 09/12/2011, *Contact:* Keith Melton 404–865–5600.

EIS No. 20110237, Final EIS, BLM, WY, Buckskin Mine Hay Creek II Project, Coal Lease Application WYW–172684, Wyoming Powder River Basin, Campbell County, WY, *Review Period Ends:* 08/29/2011, *Contact:* Teresa Johnson 307–261–7510.

EIS No. 20110238, Draft EIS, NPS, DC, Anacostia Park Wetland and Resident Goose Management Plan, To Guide and Direct the Actions of National Park Service (NPS) in the Management of Wetlands and Resident (non-migratory) Canada Geese at Anacostia Park, Implementation, Washington, DC, *Comment Period Ends:* 09/26/2011, *Contact:* Alex Romero 202–690–5197.

EIS No. 20110239, Draft EIS, BLM, 00, Gateway West Transmission Line Project, Proposed To Analyze the Effects of Authorizing the Proponents (Rocky Mountain Power and Idaho Power) to Construct and Operate the Gateway West Transmission Line Project, Application for Right-of-Way (ROW) Grants to Utilize Portions of National System of Public Lands and Special Use Permits to Utilize Portions of National Forest System Lands in Southern Wyoming, Southern Idaho and Possibly Northern Nevada, *Comment Period Ends:* 10/26/2011, *Contact:* Walter E. George 307–775–6116.

EIS No. 20110240, Draft EIS, NPS, AK, Denali Park Road and Preserve, Draft Vehicle Management Plan, Implementation, AK, *Comment Period Ends:* 09/30/2011, *Contact:* Miriam Valentine 907–733–9102.

EIS No. 20110241, Draft EIS, NNSA, NV, Site-Wide EIS—Continued Operation of the Department of Energy/National Nuclear Security Administration, Nevada National Security Site and Off-Site Location in Nevada, *Comment Period Ends:* 10/27/2011, *Contact:* Linda M. Cohn 702–295–0077.

EIS No. 20110242, Final EIS, BLM, CO, Over The River (OTR) Project, Propose to Install a Temporary Work of Art, Require the Use of Federal, Private and State Lands Adjacent to the River, Western Fremont County and Southeast Portion of Chaffee County, CO, *Review Period Ends:* 08/29/2011, *Contact:* Vincent Hopper 719–269–8555.

EIS No. 20110243, Draft EIS, FHWA, 00, Tier 1—National Highway System (NHS) Corridor, Propose to Develop an Improved Transportation Connecting (US–220) between I–68 and Corridor H, Grant, Hardy, Hampshire, Mineral Counties, WV and Allegany County, MD, *Comment Period Ends:* 10/14/2011, *Contact:* Greg Bailey 304–558–9722.

EIS No. 20110244, Draft EIS, FHWA, OR, US–97 Bend North Corridor Project, Propose to Improve a Segment of US–97 in Deschutes County, Oregon between the Deschutes Market Road/Tumalo Junction Interchange and the Empire Avenue Interchange, Deschutes County, OR, *Comment Period Ends:* 09/12/2011, *Contact:* Chris Bucher 503–399–5749.

Amended Notices

EIS No. 20110225, Final EIS, FHWA, TN, Interstate 55 Interchange at E.H. Crump Boulevard and South Boulevard Project, To Provide a Balanced Solution for Safety and Capacity Issues at the I55 Interchange, City of Memphis, Shelby County, TN, *Review Period Ends:* 08/22/2011, *Contact:* Charles J. O'Neill 615–781–5772.

Review to FR Notice 07/22/2011: Correction to Review Period End from 08/15/2011 to 08/22/2011.

EIS No. 20110228, Final EIS, FHWA, IN, I–69 Evansville to Indianapolis Tier 2 Section 4 Project, From U.S. 231 (Crane NSWC) to IN–37 South of Bloomington in Section 4, Greene and Monroe Counties, IN, *Review Period Ends:* 08/22/2011, *Contact:* Michelle Allen 317–226–7344.

Review to FR Notice 07/22/2011: Correction to Review Period End from 08/15/2011 to 08/22/2011.

EIS No. 20110231, Final EIS, BLM, NV, Salt Wells Energy Projects, Proposal for Three Separate Geothermal Energy and Transmission Projects, Implementation, Churchill County, NV, *Review Period Ends:* 08/22/2011, *Contact:* Colleen Sievers 775–885–6168.

Review to FR Notice 07/22/2011: Correction to Review Period End from 08/15/2011 to 08/22/2011.

EIS No. 20110234, Final EIS, FHWA, WI, US 41 Improvement Project, Extend from Depere—Suamico (Memorial Drive to County M), Brown County, WI, *Review Period Ends:* 08/22/2011, *Contact:* George Poirier 608–829–7500.

Review to FR Notice 07/22/2011: Correction to Review Period End from 08/15/2011 to 08/22/2011.

Dated: July 26, 2011.

Cliff Rader,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2011–19234 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0550; FRL–8882–2]

Nominations to the FIFRA Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel (SAP) established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a statutory Panel by amendment to FIFRA, dated October 25, 1988. The Agency, at this time, anticipates selecting two new members to serve on the panel as a result of membership terms that will expire next year. Public comments on the nominations are invited, as these comments will be used to assist the Agency in selecting the new chartered Panel members.

DATES: Comments, identified by docket ID number EPA–HQ–OPP–2011–0550, must be received on or before August 29, 2011.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–0550, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation

(8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions. Direct your comments to docket ID number EPA–HQ–OPP–2011–0550. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the Designated Federal Official (DFO) listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments. 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: Joseph E. Bailey, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (202) 564–2045; fax number: (202) 564–8382; *e-mail address: bailey.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA), FIFRA, and the Food Quality Protection Act of 1996 (FQPA). 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 DFO listed under **FOR FURTHER INFORMATION CONTACT**.

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

When submitting comments, remember to:

1. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
2. 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.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. Background

The FIFRA SAP serves as the primary scientific peer review mechanism of EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and is structured to provide scientific advice, information and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee, established in 1975 under FIFRA, that operates in accordance with requirements of the Federal Advisory Committee Act (FACA). The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health (NIH) and the National Science Foundation (NSF). FIFRA, as amended by FQPA, established a Science Review Board consisting of at least 60 scientists who are available to the SAP on an *ad hoc* basis to assist in reviews conducted by the FIFRA SAP. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency.

In accordance with the statute, the SAP is composed of a permanent panel of seven members, selected and appointed by the Administrator of EPA from nominees submitted by both the NSF and the NIH. The Agency, at this time, anticipates selecting two new members to serve on the panel as a result of membership terms that will expire next year. The Agency requested nominations of experts to be selected from the fields of pharmacology, immunotoxicology, toxicology risk assessment, environmental toxicology and/or biostatistics with demonstrated experience and expertise in all phases of the risk assessment process including: Planning, scoping, and problem formulation; analysis; and interpretation and risk characterization (including the interpretation and communication of uncertainty). Nominees should be well published and current in their field of expertise. The statute further stipulates that we publish the name, address and professional affiliation in the **Federal Register**.

III. Charter

A Charter for the FIFRA SAP dated October 22, 2010, was issued in accordance with the requirements of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (5 U.S.C. App. I).

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact of pesticides on health and the environment. No persons shall be ineligible to serve on the Panel by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). The Deputy Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR part 3, subpart F, Standards of Conduct for Special Government Employees, which include rules regarding conflicts of interest. Each nominee selected by the Deputy Administrator, before being formally appointed, is required to submit a confidential statement of employment and financial interests, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

In accordance with section 25(d)(1) of FIFRA, the Deputy Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, educational background, employment history, and scientific publications.

B. Applicability of Existing Regulations

With respect to the requirements of section 25(d) of FIFRA that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to Special Government Employees, which include advisory committee members, will apply to the members of the SAP. These regulations appear in 40 CFR part 3, subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d) of FIFRA, EPA, on February 24, 2011, requested that the NIH and the NSF nominate scientists to fill vacancies occurring on the Panel. The Agency requested nominations of experts in the fields of pharmacology, immunotoxicology, toxicology risk assessment, environmental toxicology and/or biostatistics with demonstrated experience and expertise in all phases of the risk assessment process including: Planning, scoping, and problem formulation; analysis; and interpretation and risk characterization (including the interpretation and communication of uncertainty). NIH and NSF responded by letter, providing the Agency with a total of 38 nominees. Copies of these letters, with the listed nominees, are available in the public docket referenced in Unit I.B.1., of this notice. Of the 38 nominees, 20 are interested and available to actively participate in SAP meetings (see Unit IV. Nominees). The following 18 nominees are not available:

1. Kim Boekelheide, PhD, Brown University, Providence, RI.
2. Paul W. Brandt-Rauf, DrPH, MD, ScD, University of Illinois, Chicago, IL.
3. Patricia A. Buffler, PhD, MPH, University of California, Berkeley, CA.
4. John Cashman, PhD, Human Biomolecular Research Institute, San Diego, CA.
5. Deborah A. Cory-Slechta, PhD, University of Rochester School of Medicine & Dentistry, Rochester, NY.
6. Carlos Davidson, PhD, San Francisco State University, San Francisco, CA.
7. Elaine Faustman, PhD, University of Washington, Seattle, WA.
8. Clement Furlong, PhD, University of Washington, Seattle, WA.
9. John P. Giesy, PhD, University of Sasketchewan, Saskatoon, Saskatchewan, Canada.
10. Anumantha Kanthasamy, PhD, Iowa State University, Ames, IA.
11. Stephen A. McCurdy, M.D., M.P.H., University of California-Davis, Davis, CA.
12. Marie Lynn Miranda, PhD, Duke University, Durham, NC.
13. James J. Pestka, PhD, Michigan State University, East Lansing, MI.
14. Walter J. Rogan, M.D., National Institute of Environmental Health Sciences, Research Triangle Park, NC .
15. Jason Rohr, PhD, University of South Florida, Tampa, FL.
16. Anthony Scialli, M.D., Tetra Tech Services, Arlington, VA.
17. Lester G. Sultatos, PhD, University of Medicine & Dentistry of New Jersey, Newark, NJ.
18. Stephen C. Waring, DVM, PhD, Marshfield Clinic Research Foundation, Marshfield, WI.

IV. Nominees

The following are the names, addresses, professional affiliations, and selected biographical data of nominees being considered for membership on the FIFRA SAP. The Agency anticipates selecting two of the nominees to fill vacancies occurring next year.

1. Daniel W. Anderson, PhD, University of California Davis, Davis, CA.

i. Expertise: Ecotoxicology.

ii. Education: B.S., in Zoology from North Dakota State University; M.S., in Wildlife Ecology and PhD, in Wildlife Ecology and Zoology from University of Wisconsin.

iii. Professional Experience: Dr. Daniel Anderson is Professor Emeritus at the University of California Davis, where he was Director and co-founder of the Marine Bird Ecology and Ecotoxicology Project, and former Chair of the UC Davis Department of Wildlife, Fish, and Conservation Biology. He joined the faculty of UC Davis in 1976, and is continuing his research efforts on environmental contaminants and their effects on seabird populations, ecology, habitat, migration and related areas. While at UC Davis, he taught undergraduate courses in Wildlife Ecotoxicology, Avian Biology, and Field Biology Techniques; as well as graduate seminars in Ecotoxicology and Avian Ecology, and also served as founder and Chairperson of the Ecotoxicology ''area of emphasis'' in the Ecology Graduate Group at UC Davis. Prior to that, while at University of Wisconsin, he was instrumental in hypothesizing and documenting a specific link between the DDT-metabolite, DDE, and widespread eggshell thinning in susceptible species of birds. In late 1970, Dr. Anderson served as a Research Biologist for the U.S. Fish and Wildlife Service, working on pesticide contaminants in wildlife of California and Mexico, primarily to study and document contaminant changes in seabirds and raptors, in particular, the decline of DDE and associated beginnings of the recovery of the Brown Pelican. Dr. Anderson and his co-workers also published papers on the dynamics and effects of agricultural contaminants in migratory waterbirds. Dr. Anderson retired from teaching and administration in 2009, but continues his life-long commitment to ecotoxicology, seabird biology, and conservation. Dr. Anderson's current research involves studies of contamination effects, distribution, and dynamics of organic and inorganic materials in birds from California and Baja California coastal and wetland environments. Dr. Anderson is also actively involved in the conservation and management of avian populations and their habitats.

2. John C. Bailar, III, M.D., PhD, The University of Chicago, Chicago, IL.

i. Expertise: Statistics, epidemiology & risk assessment.

ii. Education: B.A. in Chemistry from the University of Colorado; M.D. in Medicine from Yale University; PhD in Statistics from the American University.

iii. Professional Experience: Dr. John Bailar is Professor Emeritus at the University of Chicago and founding Chair of the University's Department of Health Studies. His professional interests have centered for years on the causes and prevention of disease. More recently he has focused on improving quality and performance in science generally. He was at the U.S. National Cancer Institute 1956–1980, Harvard University 1980–1988, and McGill University 1988–1995, before he went to Chicago. At present he is Scholar in Residence at the National Academies. He was a MacArthur Fellow 1990–1995. He has published widely in the statistics and epidemiology literature, including, recently, the health effects of air pollution. His areas of expertise include statistics, epidemiology and risk assessment. He has chaired over 20 National Academy committees and served on numerous others and has also served as monitor of more than 20 Academy reports.

3. Kenneth Barry Delclos, PhD, U.S. Food and Drug Administration (FDA), Jefferson, AR.

i. Expertise: Toxicology, pharmacology, endocrine disruption.

ii. Education: A.B. in Biochemistry from Cornell University; PhD in Pharmacology from Harvard University; Postdoctoral work at McArdle Laboratory for Cancer Research, University of Wisconsin.

iii. Professional Experience: Dr. K. Barry Delclos is a Research Pharmacologist in the Division of Biochemical Toxicology at the FDA's National Center for Toxicological Research since 1985, where he has conducted research in diverse areas. Earlier efforts focused largely on chemical carcinogenesis, but more recently his focus has been on toxicities associated with endocrine active agents. He continues to serve as Principal Investigator on a series of studies conducted under an Interagency Agreement between the FDA and the National Toxicology Program to evaluate aspects of the hypothesis that exposure to low levels of hormonally active agents, particularly during development, adversely affects human health, including reproductive function and carcinogenesis. He has served on interagency committees evaluating carcinogens and endocrine active agents, including several EPA advisory panels relating to endocrine active chemicals.

4. Russell L. Carr, PhD, Mississippi State University, Mississippi State, MS.

i. Expertise: Developmental neurotoxicology.

ii. Education: B.S. in Biology and Chemistry from Delta State University; M.S. in Zoology and PhD in Animal Physiology from Mississippi State University; Postdoctoral work at Mississippi State University.

iii. Professional Experience: Dr. Russell Carr is an Associate Professor in the Center for Environmental Health Sciences, in the College of Veterinary Medicine at Mississippi State University. Prior to serving in his current faculty position, Dr. Carr completed postdoctoral training (1995) and served as a Research Toxicologist (1995–1999) at Mississippi State. Dr. Carr's primary research interests are in the area of developmental neurotoxicology with emphasis on environmental chemicals. One focus is investigating the mechanisms by which developmental organophosphorus insecticide exposure alters the neurochemistry of the brain and induces long-term changes in behavior. Another focus is the development of a short lived aquatic vertebrate model to study the lifetime effects of developmental exposure. Dr. Carr is currently the Research Coordinator/Evaluator for the Indianola Promise Community of the Delta Health Alliance. He is active in both the national and local chapters, the Society of Toxicology (SOT). Dr. Carr has served as an *ad hoc* panel member on several U.S. EPA FIFRA SAP's.

5. Marion Ehrich, PhD, Virginia-Maryland Regional College of Veterinary Medicine, Blacksburg, VA.

i. Expertise: Pharmacology and toxicology.

ii. Education: B.S. in Pharmacy from South Dakota State University; M.S. in Pharmacology/Toxicology from the University of Chicago; and PhD in Pharmacology/Toxicology from the University of Connecticut at Storrs.

iii. Professional Experience: Dr. Marion Ehrich is a Professor at the Virginia-Maryland Regional College of Veterinary Medicine (VMRCVM) in Blacksburg, VA, and VT Carilion School of Medicine in Roanoke, VA. In addition to teaching pharmacology and toxicology to medical, veterinary and graduate students, her professional responsibilities include service in the Veterinary Medical Teaching Hospital Pharmacy and in the Toxicology Diagnostic Laboratory. She has been teaching at VMRCVM since 1980, when she also became a member of the Society of Toxicology (SOT) and a Diplomate of the American Board of Toxicology. She was elected a fellow of the Academy of Toxicological Sciences in 1999. Dr. Ehrich's primary research activities are associated with the comparative neurotoxicities of antiesterase pesticides, with both *in vivo* and *in vitro* models used for study. Dr. Ehrich was the 2003–2004, President of the SOT and their 2010 Merit Awardee. She served as Treasurer for the Board of Directors of the American Board of Toxicology (1985–89), Secretary for the SOT (1992–94), and Treasurer for the Academy of Toxicological Sciences (2006–09). She has also chaired SOT's Education Committee (1990–92), SOT's Regulatory Affairs and Legislative Action Committee (1997–98), SOT's Neurotoxicology Specialty Section (2008–2009), and the Toxicology Education Foundation (2000–2001). In addition, she served on the Executive Board of the Council for Scientific Society Presidents. She currently serves on the National Research Council's Committee on Toxicology and editorial boards for the International Journal of Toxicology, the Journal of Applied Toxicology, and NeuroToxicology.

6. Jay Gan, PhD, University of California, Riverside, CA.

i. Expertise: Environmental chemistry.

ii. Education: PhD in Pesticide Chemistry from Zhejiang University (Hangzhou, China); Postdoctoral fellow with IAEA's Laboratories in Seibersdorf, Austria (1990–1991) and University of Minnesota in St. Paul, MN (1991–1993).

iii. Professional Experience: Dr. Jianying (Jay) Gan is currently a Professor of Environmental Chemistry, in the Department of Environmental Sciences at the University of California (UC) Riverside, where he served as the Department Chair from 2007 to 2010. He joined the UC Riverside faculty in 2001, following 8 years service as a Research Scientist with the (USDA) Agricultural Research Service Laboratory in Riverside, CA. His research is related to environmental fate, transport, and risk assessment of pesticides, wastewater trace pollutants, and persistent organic pollutants, with an emphasis on water quality and risk mitigation. To date he has authored over 175 technical journal articles, and edited four pesticide books through American Chemical Society. Dr. Gan, currently supervises five PhD students majoring in Environmental Sciences or Environmental Toxicology. He teaches ''Fate and Transport of Contaminants in Soil'' to undergraduate students and ''Environmental Organic Chemistry'' to graduate students. Dr. Gan, was elected a Fellow of American Association for the Advancement of Science (AAAS) in 2008, a Fellow of American Society of Agronomy (ASA)

in 2006, and a Fellow of Soil Science Society of America (SSSA) in 2010.

7. Ellen Gold, PhD, University of California Davis School of Medicine, Davis, CA.

i. Expertise: Epidemiology, effects of environmental exposures on women's health, endocrine function and reproductive health.

ii. Education: B.A. in Bacteriology and M.A. in Zoology from the University of California—Los Angeles; PhD in Epidemiology from The Johns Hopkins University School of Hygiene and Public Health.

iii. Professional Experience: Dr. Ellen Gold is the current Chair of the Department of Public Health Sciences and Chief of the Division of Epidemiology, in that Department in the University of California Davis School of Medicine and former Chair of the Graduate Group in Epidemiology. After receiving her PhD she became a faculty member at The Johns Hopkins University until she moved to the UC Davis faculty in 1988. She has been principal investigator on a number of NIH-funded, peer-reviewed grants and has had continuous NIH research grant funding for over 20 years. These research grants have largely focused over the past 30 years on lifestyle and environmental factors that affect women's reproductive health and cancer risk and include her work for the past 15 years studying the natural history of the menopausal transition, including hormonal and symptomatic changes, in a longitudinal study of a large, multi-racial/ethnic national cohort. She has also authored or co-authored over 150 peer-reviewed publications. She has mentored numerous graduate students and junior faculty and has received a number of outstanding faculty and mentoring awards, as co-director of the UC Davis Building Interdisciplinary Research Careers in Women's Health program and is a Fellow in the American Association for the Advancement of Science.

8. Pertti (Bert) J. Hakkinen, PhD, National Institutes of Health, Bethesda, MD.

i. Expertise: Toxicology.

ii. Education: B.A. in Biochemistry and Molecular Biology from the University of California—Santa Barbara; PhD in Comparative Pharmacology and Toxicology from the University of California, San Francisco, CA.

iii. Professional Experience: Dr. Pertti (Bert) Hakkinen is the Senior Toxicologist and Toxicology and Environmental Health Science Advisor in the Division of Specialized Information Services at the National Library of Medicine (NLM), National Institutes of Health (NIH). He provides leadership on the development of new resources in toxicology, exposure science, and risk assessment, and enhancements to existing NLM resources in these fields. Dr. Hakkinen is the project leader for the Wireless Information System for Emergency Responders (WISER) and Chemical Hazards Emergency Medical Management (CHEMM) tools, represents NLM on various committees, and provides leadership for NLM's participation in national and international efforts in toxicology-, exposure-, and risk assessment-related information. He also is the co-director of a Public Health Informatics course offered since 2009, at the Uniformed Services University of the Health Sciences (USUHS) in Bethesda, Maryland, and is the vice-chair of the SAP for the Mickey Leland National Urban Air Toxics Research Center (NUATRC) in Houston, Texas. During his career, Dr. Hakkinen has held numerous leadership positions in the field of toxicology and risk assessment. Before joining the NIH in 2008, Dr. Hakkinen served for several years on the auxiliary staff of the European Commission (EC) at the EC's Institute for Health and Consumer Protection, Joint Research Centre, in Italy. He has also held positions with Toxicology Excellence for Risk Assessment (TERA) and Gradient Corporation in the United States and at the Procter and Gamble Company in the United States and Japan. Dr. Hakkinen is a member of the Society of Toxicology (SOT) and a charter member of the Society for Risk Analysis (SRA) and the International Society of Exposure Science (ISES). He is a co-editor and co-author of the latest edition of the *Encyclopedia of Toxicology,* and of the last two editions of the *Information Resources in Toxicology* book. Dr. Hakkinen has authored and co-authored numerous other publications.

9. Dale Hattis, PhD, Clark University, Worcester, MA.

i. Expertise: Risk assessment methodology.

ii. Education: B.A. in Biochemistry from the University of California, Berkeley, CA. PhD in Genetics from Stanford University.

iii. Professional Experience: Dr. Dale Hattis is Research Professor with the George Perkins Marsh Institute at Clark University. For the past 35 years he has been engaged in the development and application of methodology to assess the health, ecological, and economic impacts of regulatory actions. His work has focused on approaches to incorporate inter-individual variability data and quantitative mechanistic information into risk assessments for both cancer and non-cancer endpoints. Recent research has explored PBPK-based dosimetry for chlorpyrifos based on observations of blood levels in pregnant women and their newborn infants, quantitative analysis of uncertainties for cancer and non-cancer health risks of dioxin, age-related differences in sensitivity to carcinogenesis and other effects, a taxonomy of different non-mutagenic modes of action for carcinogenesis with likely differential implications for age-related sensitivity, PBPK modeling of acrylamide dose in rats and humans, and mechanism-based dose response modeling of carcinogenic effects from ionizing radiation. He is a leader in efforts to replace the current system of uncertainty factors with distributions based on empirical observations. He has been a member of the Environmental Health Committee of the EPA Science Advisory Board, and for several years he has served as a member of the FQPA Science Review Board. He has also served as a member of the National Research Council Committee on Estimating the Health-Risk-Reduction Benefits of Proposed Air Pollution Regulations. He has been a Councilor and is a Fellow of the Society for Risk Analysis.

10. David Hawthorne, PhD, University of Maryland, College Park, MD.

i. Expertise: Entomology.

ii. Education: B.S. in Biology and Economics from Kent State University; M.S. in Entomology from North Carolina State University; PhD in Entomology from Cornell University; Postdoctoral training at the University of Oregon and Cornell University.

iii. Professional Experience: Dr. David J. Hawthorne is an Associate Professor at the University of Maryland, College Park, in the Department of Entomology, College of Computational, Mathematical and Natural Sciences, where he has served on the faculty since 1997. At Cornell University, Dr. Hawthorne did his thesis work on insect adaptation to resistant crop cultivars, focusing on quantitative genetics approaches to understanding that process. His post-doctoral training was done at the University of Oregon and at Cornell University. At the University of Oregon, he worked on molecular genetics of variation in anthocyanin expression in maize. At Cornell he developed markers and populations that would result in the first genetic linkage map of Colorado potato beetle and the mapping of resistance in that insect to the insecticide esfenvalerate. The Hawthorne lab investigates the genetic

and ecological factors underlying responses of insects to novel host plants and agricultural pesticides. This work has been applied to increase understanding of the processes of speciation and the risk assessment and management of pesticide responses by both pest and beneficial insects. Dr. Hawthorne has an active collaboration at the United States Department of Agriculture/Agricultural Research Service (USDA/ARS) at Beltsville, MD, on the effects of chronic exposure of pesticides to honey bees and on the effects of pesticide combinations on honey bee health. He has authored 21 articles on insect molecular ecology and genetics, has served on several grant review committees for the USDA and the NIH, and on review panels for development of resistance-preventing strategies and re-registration of Bt corn for the EPA. Research in Dr. Hawthorne's laboratory is currently funded by grants from the USDA.

11. Lawrence Kapustka, PhD, SLR Consulting, Calgary, Alberta, Canada.

i. Expertise: Environmental & ecological risk assessment.

ii. Education: B.S.Ed in Biology and M.S. in Botany from the University of Nebraska; PhD Plant Physiological Ecology from the University of Oklahoma.

iii. Professional Experience: Dr. Lawrence Kapustka has over 35 years of experience in environmental and ecological risk assessment. He began his professional career in academia with 3 years at the University of Wisconsin-Superior and 10 years at Miami University teaching courses, conducting research programs, and advising graduate students in a range of basic and applied subjects including ecology, forestry, plant physiology, microbial ecology, and environmental sciences. He followed that academic start to his career with 3 years at the EPA research laboratory in Corvallis, Oregon where he led the Plant Toxicology and Hazardous Waste research programs. Since 1990, Dr. Kapustka has worked in consulting firms including his own private practice for over 15 years. Dr. Kapustka has gained international recognition for his leadership role in advancing the practice of environmental risk assessment. His contributions have included the development of test methods used to evaluate toxicity of chemicals to ecological receptors and continual refinement of approaches to assess environmental risks. He has collaborated with clients to advance the state-of-the-science employed in risk assessments, including the use of the basics of systems ecology and landscape ecology. Most recently, Dr. Kapustka has been working with colleagues and clients to incorporate spatially-explicit landscape perspectives to achieve integrated holistic risk assessments to inform environmental management decisions. He has helped clients with strategic planning to address environmental challenges, the design of sampling plans to characterize baseline conditions, and design of monitoring plans to track environmental compliance. Dr. Kapustka has worked with industries, public interest groups, and regulators from several jurisdictions (Federal, state/provincial, and international) to develop policies and approaches to meet emerging concerns, including those in the growing field of nanotechnology and radiation ecology. He has provided litigation support pertaining to natural resource damage claims, permitting, and site contamination cases. Dr. Kapustka has been responsible for business development, marketing, project management, and general business operations. He volunteers as a member of the executive committee of the Calgary Chapter of Ducks Unlimited Canada.

12. David J. Kent, PhD, Keller & Heckman LLP, Washington, DC.

i. Expertise: Environmental risk assessment.

ii. Education: B.S. in Biology from University of Bridgeport; M.S. in Environmental Science from Rutgers University; PhD, in Environmental Science and Policy from George Mason University.

iii. Professional Experience: Dr. David Kent has 28 years of consulting experience, primarily in the area of chemical and pesticide regulation for both domestic and international companies. He assists clients in assessing available data, manages consortia, conducts environmental fate and transport modeling, and performs environmental risk assessments. Dr. Kent is a leader in the assessment and management of High Production Volume (HPV), Medium Production Volume (MPV), and Persistent Bioaccumulative and Toxic (PBT) chemicals in both the United States and Europe. He assesses potential risks of chemical and pesticide use and has helped companies in a wide variety of specialty areas, including chemicals, pesticides, and consumer products. Dr. Kent is very active in advising companies in how best to meet their obligations under the European REACH chemical control program, the European Union (EU) classification and labeling regulation, and the EU Biocides Directives and Regulation. He has also prepared numerous data dossiers for client submission to regulatory agencies, including proprietary reports for submission under REACH, FIFRA, BPD, TSCA, HPV, FDA, and other regulatory and voluntary programs. Dr. Kent is actively involved in and commonly speaks at regional, national, and international scientific organizations. He has served as president of regional chapters of both the Society of Environmental Toxicology and Chemistry (SETAC) and the Society for Risk Analysis (SRA). He chaired the Program Committee for the 26th Annual SETAC meeting and routinely participates at trade association-sponsored conferences, often as the moderator for panels. Dr. Kent has authored or co-authored more than 100 scientific articles, presentations, and other documents for both peer-reviewed journals and technical newsletters. Topics have included preparations and requirements for REACH, probabilistic ecological risk assessment of pesticides, the proposed Biocide Products Regulation, ecological risk assessment for wetlands, policy implications of emerging chemical regulations, and the status and trends of the HPV Chemical assessment programs in the United States and Europe.

13. Lynda Lanning, D.V.M., DABT, National Institutes of Health, Bethesda, MD.

i. Expertise: Toxicology and pathology.

ii. Education: B.S. in Animal Science and Zoology from North Carolina State University; D.V.M from Auburn University.

iii. Professional Experience: Dr. Lynda Lanning is a Health Administrator in the Office of Regulatory Affairs, Division of Microbiology and Infectious Disease, National Institute of Allergy and Infectious Disease, National Institutes of Health. She completed a pathology residency at Argonne National Laboratory and is a Diplomate of the American Board of Toxicology. Her expertise is in toxicologic pathology, toxicology, safety assessment and drug development. Dr. Lanning's diverse professional experience as a toxicologic pathologist includes work with the National Toxicology Program, medical device product development, contract research industry nonclinical toxicology, regulatory nonclinical pharmaceutical safety assessment and compound development, and biologic and therapeutic drug development of unique compounds for biodefense, global and orphan diseases. She is responsible for making complex regulatory and drug development recommendations based on the results of nonclinical studies. Dr. Lanning is

involved in the technical design and analysis of nonclinical studies for compounds in early and late stages of development, evaluation of the effectiveness and quality of nonclinical studies and safety assessment of compounds in development. She has authored numerous peer-reviewed publications and book chapters and is an active member of both national and international professional societies related to toxicology and toxicologic pathology.

14. James McManaman, PhD, University of Colorado—Denver, Aurora, CO.

i. Expertise: Biochemistry, neurobiology and reproductive health.

ii. Education: B.S. in Chemistry from University of Northern Colorado; PhD in Biochemistry from University of Colorado—Boulder; Post Doctoral Fellow at Baylor College of Medicine.

iii. Professional Experience: Dr. James McManaman is a Professor of Obstetrics and Gynecology, and Chief of the Division of Reproductive Sciences at the University of Colorado, Anschutz Medical Campus. He joined the Neurology Faculty at Baylor College of Medicine where he worked on motoneuron survival factors. Dr. McManaman was recruited to Synergen Inc., in 1992, as head of their Neuroscience Group. Following the sale of Synergen to Amgen in 1993, Dr. McManaman returned to academics at the University of Colorado's medical campus where he remains. At the University of Colorado, Dr. McManaman developed active interest in mammary gland biology, lipid metabolism, preterm birth and perinatal biology, which are currently his primary research interests. Dr. McManaman is the Research Director of the NIH funded Women's Reproductive Health Research Program at the University of Colorado, and he directs the University's Frontiers in Pregnancy Research Symposia, a nationally recognized symposia that focuses on biological, psychosocial and clinical research related to pregnancy and perinatal biology. Dr. McManaman is also the co-director of the Adipose Biology Program of the University of Colorado's Obesity Research Initiative. He has served on a number of advisory panels including being a regular member of the Integrated Clinical Endocrinology and Reproduction (ICER) Study Section at NIH from 2005–2009, and an *ad hoc* reviewer for a variety of other NIH Study Sections.

15. Prakash Nagarkatti, PhD, University of South Carolina School of Medicine, Columbia, SC.

i. Expertise: Immunotoxicology.

ii. Education: B.Sc. in Botany and Chemistry and M.Sc. in Microbiology from Karnatak University; PhD, in Immunology from Jiwaji University/ Defense R & D Establishment, India; Postdoctoral research in Immunology at McMaster University and University of Kentucky School of Medicine.

iii. Professional Experience: Dr. Prakash Nagarkatti is currently a South Carolina Distinguished Professor and Associate Dean for Basic Science at the School of Medicine, University of South Carolina (USC), as well as the Director of the NIH-supported Center of Research Excellence in Inflammatory and Autoimmune Diseases. From 2005 to 2010, he also served as an advisor to the vice president for research at USC. He joined Virginia Tech as an assistant professor in 1986, and rose to become full professor. In 2000, Dr. Nagarkatti joined the Department of Pharmacology and Toxicology at the Medical College of Virginia, Virginia Commonwealth University as Wazeter Distinguished Professor and Director, Immunotoxicology. Dr. Nagarkatti's research has been continuously supported by numerous grants from NIH, NSF/EPA, and American Cancer Society totaling more than $21 million. Currently, he serves as the Director and Principal Investigator on a $6 million NIH Interdisciplinary Center of Research Excellence in Inflammatory and Autoimmune Diseases. Dr. Nagarkatti has published over 150 scientific papers in high-impact journals and has won numerous awards nationally and internationally including those for teaching and scholarly activity. He has chaired and served as a member on numerous NIH Study Sections and has been invited to give keynote/plenary talks at international meetings. Dr. Nagarkatti has also served on a number of advisory and review panels nationally and internationally, for Federal government and private foundations. Dr. Nagarkatti is one of the pioneers in the area of immunotoxicology, having published papers in this field from early 1980s. Currently, his lab has been investigating the effect of a wide range of environmental contaminants, endocrine disruptors, drugs, and botanicals on the immune response. His laboratory was instrumental in demonstrating for the first time that dioxin (TCDD) triggers apoptosis in immune cells through activation of AhR receptor. His research in immunotoxicology has received recognition and awards from the Society of Toxicology. More recently, Dr. Nagarkatti has been working on the impact of epigenetic regulation on the immune system and testing the ''fetal basis of adult disease'' hypothesis using endocrine disruptors. His research has provided evidence to support this concept by demonstrating how exposure to endocrine disruptors during pregnancy alters T cell development in the fetus and how this impacts the immune response and susceptibility to immunological disorders, infections and cancer, during adult life.

16. Harry M. Ohlendorf, PhD, CH2M HILL, Inc., Sacramento, CA.

i. Expertise: Ecological risk assessment & fisheries/wildlife ecotoxicology.

ii. Education: B.S. in Wildlife Management, M.S. in Wildlife Science and PhD, in Wildlife Science from Texas A&M University.

iii. Professional Experience: Dr. Harry Ohlendorf is Technology Fellow at CH2M Hill, Inc., and has more than 39 years of experience in evaluating the impacts of environmental contaminants on wildlife in aquatic and terrestrial ecosystems, including more than 21 years at CH2M Hill and more than 18 years with U.S. Fish and Wildlife Service (USFWS). He began his career in 1971, as a Wildlife Research Biologist with the USFWS Patuxent Wildlife Research Center, in Laurel, Maryland, where he served as Assistant Director for 7 years and remained actively involved in pollution ecology research. In 1980, he became the leader of the USFWS Pacific Coast Research Station in Davis, California, and studied the occurrence and impacts of contaminants in aquatic and terrestrial ecosystems until 1990 when he joined CH2M HILL. Dr. Ohlendorf's experience there includes a wide variety of environmental projects, particularly focusing on ecological risk assessment and risk management, for which he provides firm-wide technical guidance. Risk assessments have focused on a wide range of contaminants, ecological receptors, and ecosystems. He is a Certified Wildlife Biologist and serves as the Chair of The Wildlife Society's Wildlife Toxicology Working Group. He has been recognized as a ''Pioneer of Selenium Research'' for his extensive work related to selenium ecotoxicology. Dr. Ohlendorf served on the Editorial Board of the journal Environmental Toxicology and Chemistry in 1987–1989, and 2007–2010, and has authored more than 85 papers in the fields of ecotoxicology and vertebrate ecology (including 12 invited book chapters and 2 books edited/co-edited).

17. Rick Relyea, PhD, University of Pittsburgh, Pittsburgh, PA.

i. Expertise: Biology, ecology and ecotoxicology.

ii. Education: B.S. in Environmental and Forest Biology (Wildlife Management) from State University of New York—Syracuse; M.S. in Wildlife Science (Wildlife Management) from Texas Tech University; PhD in Biology (Ecology, Evolution and Organismal Biology) from the University of Michigan.

iii. Professional Experience: Dr. Rick A. Relyea is a Professor of Biology at the University of Pittsburgh and Director of the Pymatuning Laboratory of Ecology. Dr. Relyea regularly teaches courses in ecology, evolution, and animal behavior at the undergraduate and graduate levels. For two decades, Dr. Relyea has conducted research on a wide range of topics including community ecology, evolution, disease ecology, and ecotoxicology. He has served on multiple scientific panels for the NSF and has been an associate editor for the journals of the *Ecological Society of America.* He has authored more than 80 scientific articles and book chapters, and has presented research seminars throughout the world. In 2005, he was named the ''Chancellor's Distinguished Researcher'' at the University of Pittsburgh.

18. Lee Shugart, PhD, LR Shugart & Associates, Inc., Oak Ridge, TN.

i. Expertise: Biochemistry, environmental sciences, genetic ecotoxicology.

ii. Education: B.S. in Chemistry from East Tennessee State University; M.S. in Biochemistry and PhD in Microbiology from the University of Tennessee.

iii. Professional Experience: Dr. Lee Shugart is President of LR Shugart and Associates, Inc. His research interests are concerned with elucidating the cellular mechanisms of environmental genotoxicants and the development of new methodologies for quantifying the interaction of genotoxicants with DNA and proteins. He has published over one hundred articles in the peer-reviewed, scientific literature on such topics as protein biosynthesis, mechanisms of enzyme action, and nucleic acid biochemistry, and has conducted extensive research on the chemical modification of macromolecules by environmental contaminants in fish, rodents, and humans. He is considered an established authority on the use of the Biomarker Approach for evaluating the effects of contaminants on the health of environmental species. He is the current and founding Editor-in-Chief of the international scientific journal *Ecotoxicology,* a past member of the editorial board of Biomarkers and an Associate Editor for the 2nd edition of the *Encyclopedia of Toxicology.* He has served as a Consultant to the Science Advisory Board of the EPA and as a Scientific Assistant to the Deputy Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Matters/Counter Proliferation. Dr. Shugart was a Line Officer in the U.S. Navy and served as a Communication Officer for the Chief of Naval Operation and as a Chief Engineer on a destroyer stationed with the 6th fleet. He is a veteran of the Korean Conflict.

19. Joseph P. Sullivan, PhD, Ardea Consulting, Woodland, CA.

i. Expertise: Pesticide ecotoxicology.

ii. Education: B.A. in Biology from Ripon College; M.S. in Biology/Ecology from Utah State University; PhD in Wildlife Science from Virginia Polytechnic Institute & State University.

iii. Professional Experience: Dr. Joseph Sullivan is Principal Consultant/Owner of Ardea Consulting. His work since graduate school has involved the evaluation of impacts of pesticides on terrestrial wildlife species. His graduate research investigated blood biomarkers indicative of reproductive impacts following exposure to organochlorine insecticides. Immediately following graduate school, he worked for 3½ years as the avian toxicologist for a pesticide manufacturing company. Dr. Sullivan acted as Study Director conducting EPA guideline ecotoxicology tests according to Good Laboratory Practices. He also spent 3 years conducting field studies evaluating exposure to and impacts of pesticides to wildlife, primarily birds. This experience provided in-depth knowledge and understanding of the testing necessary for the registration of pesticides. In 1997, he established Ardea Consulting which he continues to operate in Woodland, CA, specializing in avian and wildlife biology/toxicology as well as ecological risk assessment. In 2009, Dr. Sullivan co-authored a chapter on impacts of environmental contaminants on wildlife in the six volume compendium *General and Applied Toxicology.* In Pennsylvania, he served as President of the Pennsylvania Chapter of the Wildlife Society, member of the Pennsylvania Biodiversity Partnership, and Secretary of the Morrisville Environmental Advisory Council. He has served as Treasurer, Secretary and Vice Chair of the Wildlife Toxicology Working Group of The Wildlife Society. Now in California, Dr. Sullivan serves on the Woodland Water Rate Advisory Committee.

20. Vasilis Vasiliou, Ph.D., University of Colorado Denver, Aurora, CO.

i. Expertise: Pharmacology & toxicology.

ii. Education: B.S. in Chemistry, Ph.D. in Biochemistry and postdoctoral training in Pharmacology from University of Ioannina, Greece; Postdoctoral training in Molecular Toxicology from the University of Cincinnati.

iii. Professional Experience: Dr. Vasilis Vasiliou is Professor of Molecular Toxicology at the Departments of Pharmaceutical Sciences and Ophthalmology at the University of Colorado Denver. He is also Director of the Toxicology Graduate Program at the University of Colorado Denver since 2001, a program that has been ranked in the top 10 of the country. Dr. Vasiliou spent his one-year Sabbatical as a Guest Scientist at the National Eye Institute, National Institutes of Health (NIH 2005–2006) in the laboratory of Molecular and Developmental Biology. Dr. Vasiliou's major research interest has been the cellular responses to oxidative stress induced by physical agents (*e.g.*. UV radiation), metabolism and toxicity of both endogenous and foreign chemicals. Dr. Vasiliou is a world expert in the Aldehyde Dehydrogenases (ALDH) and he maintains the official Web page for the ALDH superfamily. He is a Specialist Advisor for the Human Gene Nomenclature Committee of the Human Genome Organization (HUGO). He is a member of ARVO (Cornea Specialty Section) and Society of Toxicology (Ocular Toxicology & Mechanisms Specialty Section). Dr Vasiliou's research program has been funded since 1997, from NEI/NIH and NIAAA/NIH. He is the author of about 110 original scientific papers and review articles published in peer reviewed international journals as well as a number of book chapters and editorials. Dr. Vasiliou is the editor of the journal *Human Genomics* and he is a member of the Editorial Board of the *Cutaneous and Ocular Toxicology, and The Ocular Surface.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 21, 2011.

Frank Sanders,

Director, Office of Science Coordination and Policy.

[FR Doc. 2011–19174 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9446–3]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; Request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to address a lawsuit filed by Kentucky Environmental Foundation in the United States District Court for the District of Columbia: *Kentucky Environmental Foundation* v. *Jackson,* No. 10–CV–1814–PLF (D. D.C.). On October 22, 2010, Plaintiff filed a complaint alleging that EPA failed to perform a nondiscretionary duty under section 110(k)(2) of the CAA, 42 U.S.C. 7410(k)(2), to take final action on an attainment demonstration contained within a SIP submittal from the State of Kentucky for the 1997 fine particulate matter National Ambient Air Quality Standard in the Kentucky portion of the Huntington-Ashland area. The proposed consent decree establishes a deadline of March 30, 2012 for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by *August 29, 2011.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2011–0634, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5601; fax number (202) 564–5603; e-mail address: *wilcox.geoffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit seeking to compel the Agency to take final action under section 110(k) of the CAA on an attainment demonstration contained within a SIP submittal from the State of Kentucky for the 1997 fine particulate matter National Ambient Air Quality Standard in the Kentucky portion of the Huntington-Ashland area (''Attainment Demonstration''). The proposed consent decree requires that no later than March 30, 2012, EPA shall sign a notice taking final action on the Attainment Demonstration pursuant to section 110(k) of the CAA, 42 U.S.C. 7410(k). In addition, the proposed consent decree requires that no later than 15 business days following signature, EPA shall send the notice to the Office of the Federal Register for review and publication in the **Federal Register.** After EPA fulfills its obligations under the proposed consent decree, the matter shall be dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the proposed consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQOGC–2011–0634) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic

public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: July 22, 2011.

Richard B. Ossias,

Associate General Counsel.

[FR Doc. 2011–19291 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9446–2]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA''), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree to resolve a lawsuit filed by the Sierra Club (''Plaintiff'') in the United States District Court for the Western District of Wisconsin: *Sierra Club* v. *Jackson,* No. 11–cv–36–SLC (W.D. Wisc.). Plaintiffs filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Wisconsin Department of Natural Resources to Carmeuse Lime & Stone, a lime kiln facility in Manitowoc, Wisconsin. Under the proposed consent decree, EPA would agree to respond to the petition by October 7, 2011, or within 30 days after entry of the consent decree by the Court, whichever is later.

DATES: Written comments on the proposed consent decree must be received by August 29, 2011.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2011–0637, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Sara Froikin, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–3187; fax number (202) 564–5603; e-mail address: *froikin.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit alleging that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Wisconsin Department of Natural Resources to Carmeuse Lime & Stone, a lime kiln facility in Manitowoc, Wisconsin. Under the proposed consent decree, EPA would agree to respond to the petition by October 7, 2011, or within 30 days after entry of the consent decree by the Court, whichever is later, and pay specified attorneys fees to the Plaintiffs. The Court would then dismiss the case with prejudice once EPA has fulfilled these obligations under the consent decree.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2011–0348) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the

close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: July 22, 2011.

Patricia A. Embrey,

Acting Associate General Counsel.

[FR Doc. 2011–19287 Filed 7–28–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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.

DATES: Written comments should be submitted on or before August 29, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via e-mail *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via e-mail *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0854.

Title: Section 64.2401, Truth-in-Billing Format, CC Docket No. 98–170 and CG Docket No. 04–208.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents and Responses: 4,484 respondents; 34,130 responses.

Estimated Time per Response: 2 to 243 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. 201(b), and section 258, 47 U.S.C. 258, Public Law 104–104, 110 Stat. 56. The Commission's implementing rules are codified at 47 CFR 64.2400–01.

Total Annual Burden: 3,268,988 hours.

Total Annual Cost: $15,418,200.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On March 18, 2005, the Commission released Truth-in-Billing and Billing Format; National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling Regarding Truth-in-Billing, Second Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking, CC Docket No. 98–170, CG Docket No. 04–208, 20 FCC Rcd 6448 (2005) (2005 Second Report and Order and Second Further Notice); published at 70 FR 29979 and 70 FR 30044, May 25, 2005, which determined, inter alia, that Commercial Mobile Radio Service providers no longer should be exempted from 47 CFR 64.2401(b), which requires billing descriptions to be brief, clear, non-misleading and in plain language. The 2005 Second Further Notice proposed and sought comment on measures to enhance the ability of consumers to

make informed choices among competitive telecommunications service providers.

OMB Control Number: 3060–0126.

Title: Section 73.1820, Station Log.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

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

Number of Respondents and Responses: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hour.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,095 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 73.1820 requires that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

OMB Control Number: 3060–0390.

Title: Broadcast Station Annual Employment Report, FCC Form 395–B.

Form Number: FCC Form 395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses and other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 14,000 respondents: 14,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 14,000 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 334 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: FCC Form 395–B, the ''Broadcast Station Annual Employment Report,'' is a data collection device used by the Commission to assess industry employment trends and provide reports to Congress. By the form, broadcast licensees and permittees identify employees by gender and race/ethnicity in ten specified major job categories in the form last approved by the Office of Management and Budget (''OMB'') in 2008.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–19147 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 29, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or the Internet at *Nicholas_A._Fraser@omb.eop.gov;* and to the Federal Communications Commission's PRA mailbox (*e-mail address: PRA@fcc.gov.*). Include in the e-mail the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below, or if there is no OMB control number, include the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail, contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0508.

Title: Parts 1 and 22 Reporting and Recordkeeping Requirements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households and state, local or Tribal government.

Number of Respondents: 16,013 respondent; 16,013 responses.

Estimated Time per Response: .25 hours to 10 hours.

Frequency of Response: On occasion, quarterly and semi-annual reporting requirements and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151(i), 154(j), 303, 308, 309, and 310.

Total Annual Burden: 5,974 hours.

Total Annual Cost: $518,800.

Privacy Act Impact Assessment: Yes. The Commission has a System of Records, FCC/WTB–1, ''Wireless Services Licensing Records,'' which covers the personally-identifiable information (PII) that individual applicants may include in their

submissions for licenses or grants of equipment authorization.

Nature and Extent of Confidentiality: There is a need for confidentiality with respect to filers who are individuals in this collection. Pursuant to section 208(b) of the E-Government Act of 2002, 44 U.S.C. 3501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a), the Commission's Wireless Telecommunications Bureau (Bureau) instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration System (CORES), and related systems and subsystems to submit information. CORES is used to obtain a FCC Registration Number (FRN) and password, after which one must register all current call sign and ASR numbers associated with a FRN within the Bureau's system of records (ULS database). Although ULS stores all information pertaining to the individual licensee via the FRN, confidential information is accessible only by persons or entities that hold the password for each account and the Bureau's licensing staff. Upon the request for a FRN, the individual licensee is consenting to make publicly available, via the ULS database, all information that is not confidential in nature.

Needs and Uses: The Commission will submit this expiring information collection (IC) to the OMB during this comment period to obtain the three year clearance from them. The Commission is seeking OMB approval for a revision of this information collection.

The Commission has significantly reduced the burden in this information collection (IC) because we have streamlined and eliminated outdated rule sections; eliminated rule requirements that are covered under other OMB control numbers, and eliminated rule sections that were part of this collection, but are not information collections, but instead are policies the Commission published in the public interest. Finally, any duplicate information collections were also removed from this IC.

The information collected pursuant to rules in Part 22 of the Commission's rules is primarily used by Commission staff to determine, on a case-by-case basis, whether or not to grant licenses authorizing construction and operation of wireless telecommunications facilities to qualified applicants and licensees, who supply this information when they apply for such licenses.

Additionally, the information is sometimes used by Commission staff to develop statistics about the demand for various wireless telecommunications licenses and about the performance of the licensing process itself, and on occasion for rule enforcement purposes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–19150 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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.

DATES: Written PRA comments should be submitted on or before September 27, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1097.

Title: Service Rules and Policies for the Broadcasting Satellite Service (BSS).

Form No.: Not Applicable.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 8 respondents; 48 responses.

Estimated Time per Response: 2 hours—36 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under Sections 1, 4(i), 4(j), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y) and 308 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 303(y), and 308.

Total Annual Burden: 848 hours.

Total Annual Cost: $43,200 annual costs.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality pertaining to the information collection requirements in this collection.

Needs and Uses: The Federal Communications Commission (''Commission'') is requesting that the Office of Management and Budget (OMB) approve a new information collection titled, ''Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3–17.7 GHz Frequency Band and at the 17.7–17.8 GHz Frequency Band Internationally, and at the 24.75–25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3–17.8 GHz Frequency Band'' (17/24 GHz BSS).'' On June 14, 2011, the Commission released a Second Report and Order (Order) titled, ''In the Matter of The Establishment of Policies and Service Rules for the Broadcasting-Satellite Service at the 17.3–17.7 GHz Frequency Band and at the 17.7–17.8 Frequency Band Internationally, and at the 24.75–

25.25 GHz Frequency Band for Fixed Satellite Services Providing Feeder Links to the Broadcasting-Satellite Service and for the Satellite Services Operating Bi-directionally in the 17.3–17.8 GHz Frequency Band'' IB Docket No. 06–123, FCC 11–93.

A total of 8 companies have applied to the Commission to provide Broadcasting Satellite Service (BSS) or are currently authorized by the Commission to provide Direct Broadcast Satellite Service (DBS).

This Order contains the following new information collection requirements for which we seek OMB approval:

New Information Collection Requirements

47 CFR 25.114(d)(15)(iv)—Applicants filing for a space station authorization must file the information required in Section 26.264(a)–(b).

47 CFR 25.114(d)(18)—Applicants filing for a space station authorization in the Direct Broadcast Satellite service or the 17/24 GHz broadcasting-satellite service, must provide maximum orbital eccentricity calculations.

47 CFR 25.264(a)—Each applicant for a space station license in the 17/24 GHz broadcasting-satellite service (BSS) must provide a series of tables or graphs with its application, that contain the predicted transmitting antenna off-axis gain information for each transmitting antenna in the 17.3–17.8 GHz frequency band. Using a Cartesian coordinate system wherein the X-axis is defined as tangent to the geostationary orbital arc with the positive direction pointing east, i.e., in the direction of travel of the satellite; the Y-axis is defined as parallel to a line passing through the geographic north and south poles of the Earth, with the positive direction pointing south; and the Z-axis is defined parallel to a line passing through the center of the Earth, with the positive direction pointing toward the Earth, the applicant must provide the predicted transmitting antenna off-axis antenna gain information:

(1) In the X–Z plane, *i.e.*, the plane of the geostationary orbit, over a range of ±30 Degrees from the positive and negative X-axes in increments of 5 degrees or less.

(2) In planes rotated from the X–Z plane about the Z-axis, over a range of up to ±60 degrees relative to the equatorial plane, in increments of 10 degrees or less.

(3) In both polarizations.

(4) At a minimum of three measurement frequencies determined with respect to the entire portion of the 17.3–17.8 GHz frequency band over which the space station is designed to transmit: 5 MHz above the lower edge of the band; at the band center frequency; and 5 MHz below the upper edge of the band.

(5) Over a greater angular measurement range, if necessary, to account for any planned spacecraft orientation bias or change in operating orientation relative to the reference coordinate system. The applicant must also explain its reasons for doing so.

47 CFR 25.264(b)—Each applicant for a space station license in the 17/24 GHz BSS must provide power flux density (pfd) calculations with its application that are based upon the predicted off-axis transmitting antenna gain information submitted in accordance with paragraph (a) of this section, as follows:

(1) The pfd calculations must be provided at the location of all prior-filed U.S. DBS space stations where the applicant's pfd level exceeds the coordination trigger of -117 dBW/m^2/100 kHz in the 17.3–17.8 GHz band. In this rule, the term prior-filed U.S. DBS space station refers to any Direct Broadcast Satellite service space station application that was filed with the Commission (or authorization granted by the Commission) prior to the filing of the 17/24 GHz BSS application containing the predicted off-axis transmitting antenna gain information. The term prior-filed U.S. DBS space station does not include any applications (or authorizations) that have been denied, dismissed, or are otherwise no longer valid. Prior-filed U.S. DBS space stations may include foreign-licensed DBS space stations seeking authority to serve the United States market, but do not include foreign-licensed DBS space stations that have not filed applications with the Commission for market access in the United States.

(2) The pfd calculations must take into account the maximum longitudinal station-keeping tolerance, orbital inclination and orbital eccentricity of both the 17/24 GHz BSS and DBS space stations, and must:

(i) Identify each prior-filed U.S. DBS space station at whose location the coordination threshold pfd level of -117 dBW/m^2/100 kHz is exceeded; and

(ii) Demonstrate the extent to which the applicant's transmissions in the 17.3–17.8 GHz band exceed the threshold pfd level of -117 dBW/m^2/100 kHz at those prior-filed U.S. DBS space station locations.

(3) If the calculated pfd level is in excess of the threshold level of -117 dBW/m^2/100 kHz at the location of any prior-filed U.S. DBS space station, the applicant must also provide with its application certification that all affected DBS operators acknowledge and do not object to the applicants higher off-axis pfd levels. No such certification is required in cases where the DBS and 17/24 GHz BSS assigned operating frequencies do not overlap.

47 CFR 25.264(c)—No later than nine months prior to launch, each 17/24 GHz BSS space station applicant or authorization holder must confirm the predicted transmitting antenna off-axis gain information provided in accordance with § 25.114(d)(15)(iv) by submitting measured transmitting antenna off-axis gain information over the angular ranges, measurement frequencies and polarizations described in paragraphs (a)(1)–(5) of this section. The transmitting antenna off-axis gain information should be measured under conditions as close to flight configuration as possible.

4.47 CFR 25.264(d)—No later than nine months prior to launch, each 17/24 GHz BSS space station applicant or authorization holder must provide pfd calculations based upon the measured transmitting antenna off-axis gain information that is submitted in accordance with paragraph (c) of this section as follows:

(1) The pfd calculations must be provided:

(i) at the location of all prior-filed U.S. DBS space stations as defined in paragraph (b)(1) of this section, where the applicant's pfd level in the 17.3–17.8 GHz band exceeds the coordination trigger of -117 dBW/m^2/100 kHz; and

(ii) At the location of any subsequently-filed DBS U.S. DBS space station where the applicant's pfd level in the 17.3–17.8 GHz band exceeds the coordination trigger of -117 dBW/m^2/100 kHz. In this rule, the term subsequently-filed U.S. DBS space station refers to any Direct Broadcast Satellite service space station application that was filed with the Commission (or authorization granted by the Commission) after the 17/24 GHz BSS operator submitted the predicted data required by paragraphs (a)–(b) of this section, but prior to the time the 17/24 GHz BSS operator submitted the measured data required in this paragraph. Subsequently-filed U.S. DBS space stations may include foreign-licensed DBS space stations seeking authority to serve the United States market. The term does not include any applications (or authorizations) that have been denied, dismissed, or are otherwise no longer valid, nor does it include foreign-licensed DBS space stations that have not filed applications

with the Commission for market access in the United States.

(2) The pfd calculations must take into account the maximum longitudinal station-keeping tolerance, orbital inclination and orbital eccentricity of both the 17/24 GHz BSS and DBS space stations, and must:

(i) Identify each prior-filed U.S. DBS space station at whose location the coordination threshold pfd level of −117 dBW/m²/100 kHz is exceeded; and

(ii) Demonstrate the extent to which the applicant's or licensee's transmissions in the 17.3–17.8 GHz band exceed the threshold pfd level of −117 dBW/m²/100 kHz at those prior-filed U.S. DBS space station locations.

47 CFR 25.264(f)—The 17/24 GHz BSS applicant or licensee must modify its license, or amend its application, as appropriate, based upon new information:

(1) If the pfd levels submitted in accordance with paragraph (d) of this section, are in excess of those submitted in accordance with paragraph (b) of this section at the location of any prior-filed or subsequently-filed U.S. DBS space station as defined in paragraphs (b)(1) and (d)(1) of this section, or

(2) If the 17/24 GHz BSS operator adjusts its operating parameters in accordance with paragraphs (e)(1)(ii) or (e)(2)(ii) or this section.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–19151 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens and as required by the Paperwork Reduction Act of 1995, Public Law 104–13, the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

DATES: Persons wishing to comment on this information collection should submit comments by September 27, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicolas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov,* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0987.

Title: Section 20.18(l)(1)(i–iii) and 20.18(l)(2)(i–iii), 911 Callback Capability; Non-Initialized Handsets.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and State, Local or Tribal Government.

Number of Respondents: 1,384 respondents; 226,384 responses.

Estimated Time per Response: .014396 hours.

Frequency of Response: Third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. sections 154, 160, 201, 251–254, 303, and 332.

Total Annual Burden: 3,259 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for an extension of this information collection (no change in the third party disclosure requirements). The Commission will submit this information collection after this 60 day comment period.

In 2003, the Commission modified 47 CFR section 20.18(l) to further improve the ability of public safety answering points (PSAPs) to respond quickly and efficiently to calls for emergency assistance made from non-service initialized wireless mobile handsets. Non-service-initialized wireless mobile handsets (non-initialized handsets) are not registered for service with any Commercial Mobile Radio Service (CMRS) licensee. A non-initialized handset lacks a dialable number, but is programmed to make outgoing 911 calls. The Commission addressed issues arising from the inability of a PSAP operator to call back a 911 caller who becomes disconnected when using a non-service-initialized wireless handset. These requirements also apply to manufacturers of 911-only handsets that are manufactured after May 2, 2004.

The third party disclosure requirements in this information collection under 47 CFR 20.18(l) are: Licensees that donate non-initialized handsets for purposes of providing access to 911 services and manufacturers of ''911-only'' handsets are required to program each handset with 911, plus the decimal representation of the seven least significant digits of the Electronic Serial Number (ESN), International Mobile Equipment Identifier, or any other identifier unique to that handset (911–xxx–xxxx). This unique number is conveyed to the PSAP when ''911'' is dialed. Secondly, 911 services and manufacturers of ''911-only'' handsets are required to affix to each handset a label which is designed to withstand the length of service expected, and which notifies the user that its handset can only be used to dial 911, that a 911 operator will not be able to call the user back, and that the user should convey the exact location of the emergency as soon as possible. Finally, licensees that donate non-initialized handsets for purposes of providing access to 911 services and manufacturers of ''911-only'' handsets donating non-initialized phones must institute education programs to inform users of the limitation of non-initialized handsets. An education program must include a

notice, giving a detailed explanation of such limitations, including distinctions between service initialized handsets and non-initialized handsets. Wireless carriers are given the flexibility to design and execute the education program which bests responds to the individual needs of the carrier's service area.

The information will assist PSAPs by identifying incoming emergency calls originating from non-initialized handsets, thereby prompting the PSAP operators to obtain all the necessary information to locate and assist the caller. This is intended to reduce the delays in response time attributed to incidents without clear location identification. Similarly, the public education requirement, along with the labeling requirement, serves to advise consumers regarding the limitations of a non-initialized handset. They also serve to advise callers using non-initialized handsets that they must be sure to provide as much specific information to the PSAP operator as soon as possible regarding the location of the emergency situation, because there is no call back capability to a non-initialized handset.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–19152 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–1216]

Consumer Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces appointment of members and chairperson to its Consumer Advisory Committee (Committee) pursuant to its renewed charter. The Commission further announces the Committee's next meeting date, time, and agenda. The purpose of the Committee is to make recommendations to the Commission regarding matters within the jurisdiction of the Commission and to facilitate the participation of all consumers in proceedings before the Commission.

DATES: The meeting of the Committee will take place on August 17, 2011, 9 a.m. to 4 p.m., at the Commission's Headquarters Building, Room TW–C305.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Scott Marshall, Consumer and Governmental Affairs Bureau, (202) 418–2809 (voice or TTY), or e-mail *Scott.Marshall@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 11–1216, released July 20, 2011, announcing the appointment of members and chairperson to the Committee and the agenda, date and time of the Committee's next meeting. By public notice, DA–11–50, dated and released January 11, 2011, as published at 76 FR 3633, January 20, 2011, the Commission announced the renewal of the Committee's charter effective November 17, 2010. In addition, pursuant to the same public notice, the Commission solicited applications for membership on the Committee.

During the Committee's sixth term, it is anticipated that the Committee will meet in Washington, DC for a minimum of two (2) one-day plenary meetings per year. In addition, as needed, working groups or subcommittees will be established to facilitate the Committee's work between meetings of the full Committee. Members must be willing to commit to a two (2) year term of service, should be willing and able to attend a minimum of two (2) one-day plenary committee meetings per year in Washington, DC. Committee members are also expected to participate in deliberations of at least one (1) working group or subcommittee.

Appointment of Members and Chairperson

By document DA 11–1216, the Commission appoints thirty-one (31) members to its Consumer Advisory Committee. Of this number, two (2) represent the interests of academia; eleven (11) represent the interests of consumers; six (6) represent the interests of the disability community; two (2) represent the interests of government/regulators; seven (7) represent the interests of industry, and three (3) represent the interests of tribal/low income/minority communities. The Committee's slate is designed to be representative of the Commission's many constituencies, and the diversity selected will provide a balanced point of view as required by the Federal Advisory Committee Act. All re-appointments are effective immediately and shall terminate November 17, 2012, or when the Committee is terminated, whichever is earlier.

The roster as appointed by Chairman Julius Genachowski is as follows:

Ms. Debra Berlyn, representing the National Consumers League, is re-appointed chairperson of the Committee.

Members by organization and primary representative name include:

AARP—Chris Baker
American Consumer Institute—Stephen Pociask
American Foundation for the Blind—Paul Schroeder
Appalachian Regional Commission—Mark Defalco
Benton Foundation—Cecilia Garcia
Call For Action—Shirley Rooker
Coleman Institute for Cognitive Disabilities—Clayton Lewis
Consumer Action—Ken McEldowney
Consumer Federation of America—Irene E. Leech
Consumer Electronics Association—Julie Kearney
Center for Media Justice—Amalia Deloney
CTIA The Wireless Association—K. Dane Snowden
Deaf and Hard of Hearing Consumer Action Network—Claude Stout
Digital Policy Institute—Barry Umansky
Hearing Loss Association of America—Lise Hamlin
Helen Keller National Center for Deaf-Blind Youth and Adults—Dorthy Walt
Media Literacy Project—Andrea Quijada
Montgomery County, MD, Office of Cable and Broadband Services—Mitsuko Herrera
National Asian American Coalition—Mia Martinez
National Association of Broadcasters—Joel Oxley
National Association of State Utility Consumer Advocates—Lawrence Daniels
National Cable and Telecommunications Association—Rick Chessen
National Consumer Law Center—Olivia Wein
National Consumers League—Debra Berlyn (Chairperson)
Native Public Media—Dr. Traci Morris
Rochester Institute of Technology—Raja Kushalnagar
Speech Communication Assistance by Telephone—Rebecca Ladew
Time Warner Cable—Fernando R. Laguarda
T–Mobile—Luisa Lancetti
Utility Consumers' Action Network—Michael Scott
Verizon Communications, Inc.—job share of Donna Rynex/Mary Crespy

Meeting Date, Time and Agenda

The first meeting of the Consumer Advisory Committee under its renewed

charter will take place on August 17, 2011, from 9 a.m. to 4 p.m. at the Commission's headquarters building, Room TW–C305, 445 12th Street, SW., Washington, DC 20554.

At its August 17, 2011 meeting, the Committee will consider administrative and procedural matters relating to its functions. A limited amount of time will be available on the agenda for comments from the public. Alternatively, Members of the public may send written comments to: Scott Marshall, Designated Federal Officer of the Committee at the address provided above.

The meeting is open to the public and the site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, assistive listening devices, and Braille copies of the agenda and handouts will be provided on site.

Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live/.*

Simultaneous with the webcast, the meeting will be available through Accessible Event, a service that works with your Web browser to make presentations accessible to people with disabilities. You can listen to the audio and use a screen reader to read displayed documents. You can also watch the video with open captioning. The Web site to access Accessible Event is *http://accessibleevent.com.* The Web page prompts for an Event Code which is, 005202376. To learn about the features of Accessible Event, consult its User's Guide at: *http://accessibleevent.com/doc/user_guide/.* Other reasonable accommodations for people with disabilities are available upon request. The request should include a detailed description of the accommodation needed and contact information. Please provide as much advance notice as possible; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Federal Communications Commission.

Rachel Kazan,

Chief of Staff, Consumer and Governmental Affairs Bureau.

[FR Doc. 2011–19168 Filed 7–28–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0120)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501 *et seq.,* the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the PRA. On May 3, 2011 (76 FR 24880), the FDIC solicited public comment for a 60-day period on renewal of the following information collection: Flood Insurance (3064–0120). No comments were received. However, questions did arise, in response to other agency notices, regarding the amount of burden taken for flood insurance collections. In response to those concerns, the FDIC has substantially increased its estimate of paperwork burden. The FDIC hereby gives notice of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before August 29, 2011.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room F–1086, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number (3064–0120). A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently-Approved Collection of Information

Title: Flood Insurance.

OMB Number: 3064–0120.

Frequency of Response: On occasion.

Affected Public: Any depository institution that makes one or more loans to be secured by a building located on property in a special flood hazard area.

Recordkeeping

Retention of Standard FEMA Form: 4,716 respondents × 34 responses × 0.4 hours per response = 6,413.8 hours.

Total Recordkeeping Burden: 6,413.8 hours.

Disclosures

Notices to Borrowers/Servicers/FEMA: 4,716 respondents × 101 responses × .088 hours (average) per response = 42,837 hours.

Total Disclosure Burden: 42,837 hours.

Total Burden: 49,250.8 hours.

General Description of Collection: Each supervised lending institution is currently required to provide notices of special flood hazards to each borrower with a loan secured by a building or mobile home located or to be located in an area identified by the Director of the Federal Emergency Management Administration (FEMA) as being subject to special flood hazards. In addition, various other notices must also be provided to borrowers, servicers and FEMA.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 26th day of July 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–19283 Filed 7–28–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: July 25, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10380	Bank of Choice	Greeley	CO	7/22/2011
10381	LandMark Bank of Florida	Sarasota	FL	7/22/2011
10382	Southshore Community Bank	Apollo Beach	FL	7/22/2011

[FR Doc. 2011–19173 Filed 7–28–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

July 13, 2011.

TIME AND DATE: 2 p.m., Thursday, July 14, 2011.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission considered the following in a closed session: *Big Ridge, Inc.,* Docket Nos. LAKE 2011–116–R, et al., and *Peabody Midwest Mining, LLC,* Docket Nos. LAKE 2011–118–R, et al. (Issues include whether the Commission should grant an application for temporary relief from orders issued by the Secretary of Labor requiring that mine operators provide certain information and records to the Secretary.)

This meeting was closed to the public in accordance with the exemption in 5 U.S.C. 552b(c)(10) that is applicable to the consideration of a ''particular case of formal agency adjudication.'' Commission members determined that public announcement of the closed meeting at an earlier time was not practicable.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2011–19337 Filed 7–27–11; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

July 15, 2011.

TIME AND DATE: 10 a.m., Friday, July 22, 2011.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Oak Grove Resources, LLC,* Docket No. SE 2010–350–R. (Issues include whether an order issued by the Secretary of Labor was impermissibly duplicative of a previously issued citation.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2011–19338 Filed 7–27–11; 11:15 am]

BILLING CODE 6735–01–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 August 8, 2011.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Acting Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Ranjeet Singh Sidhu,* Kuala Lumpur, Malaysia; to acquire voting shares of Hometown Community Bancshares, and thereby indirectly acquire voting shares of Hometown Community Bank, both in Braselton, Georgia.

Board of Governors of the Federal Reserve System July 26, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–19212 Filed 7–28–11; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–R09–2011–01; Docket 2011–0006; Sequence 12]

Record of Decision for the Final Environmental Impact Statement for Improvements to the Calexico West Land Port of Entry, Calexico, CA

AGENCY: Public Buildings Service, General Services Administration (GSA).

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the General Services Administration (GSA) announces the availability of the Record of Decision (ROD) for the Calexico West Land Port of Entry. On July 21, 2011, the Acting Regional Administrator, Pacific Rim Region, approved the ROD for the project.

DATES: July 29, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Maureen Sheehan, NEPA Project Manager, *maureen.sheehan@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

GSA has identified and assessed several design options for the renovation, replacement, and continued operation of the Calexico West Port of Entry. In addition, GSA analyzed the No Action Alternative in which GSA would continue the status quo, that is, operate the port of entry in its current configuration, with only minor repairs and alterations.

The ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, and a listing of measures to minimize environmental harm.

Copies of the Record of Decision may be obtained from the contact listed above or online at *http://www.gsa.gov/nepalibrary.*

Contact: Ms. Maureen Sheehan, NEPA Project Manager, Portfolio Management Division, Capital Investment Branch (9P2PTC), U.S. General Services Administration, 400 15th St., SW., Auburn, Washington 98001, (253) 931–7548 or via e-mail to *maureen.sheehan@gsa.gov.*

Dated: July 21, 2011.

Samuel R. Mazzola,

Director, Portfolio Management Division, Pacific Rim Region.

[FR Doc. 2011–19217 Filed 7–28–11; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Office of the Secretary, Office of the National Coordinator for Health Information Technology (ONC), HHS.

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 Office of the Secretary, Office of the National Coordinator for Health Information Technology (ONC), HHS 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 by August 29, 2011.

ADDRESSES: Written comments may be submitted to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Officer on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; fax to OMB at 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162.

SUPPLEMENTARY INFORMATION:

Title: Health Information Technology Research Center survey.

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 to 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 0 comments in response to the 60-day notice published in the **Federal Register** of December 22, 2010 (75 FR 80542).

Below we provide the Department of Health and Human Services projected average estimates for the next three years: [1]

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:

Respondents: 4,158.

Annual responses: 1,386.

Frequency of Response: Once per request.

Average minutes per response: 15.

Burden hours: 347 annually; 1,041 total.

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.

Mary Forbes,

Office of the Secretary, Paperwork Reduction Act Clearance Officer.

[FR Doc. 2011–19220 Filed 7–28–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–New; 30-day notice]

Agency Information Collection Request: 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov,* or call the Reports Clearance Office on (202) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; fax to OMB at 202–395–5806.

Proposed Project: Effects of Insurance Market Reforms—OMB No. 0990–New–Office of the Assistant Secretary for Planning and Evaluation (ASPE).

Abstract: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) is requesting Office of Management and Budget (OMB) approval on a new data collection, consisting of a survey of a national sample of health insurers to learn about the effects of various recent insurance market reforms from the Affordable Care Act (ACA) on premiums and coverage for certain benefits. ASPE will use the results of this survey in conjunction with other data sources to build a more complete picture of the effects of the insurance market reforms that went into effect in September of 2010. The survey instrument will be a one-time, self-administered web survey sent to eight of the 12 largest insurers in each state plus the District of Columbia based on total 2009 comprehensive major medical premiums, yielding a targeted sample of 408 health insurers. Each health insurer will be asked to provide self-reported data on the percentage of covered lives with coverage for various benefits before and after the insurance market reforms went into effect, any effect of these reforms on premiums, and coverage for select other benefits under consideration for the essential benefits package. The survey design and content have been reviewed by both the ASPE project officer and other ASPE personnel, and by several former and current chief actuaries at health insurers. Data collection activities will be completed within 60 days (two months) of OMB Clearance.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden (in hours) per response	Total burden hours
Self-administered web survey	Chief Actuary at health insurance companies.	408	1	45/60	306

Mary Forbes,

Paperwork Reduction Act Clearance Officer, Office of the Secretary.

[FR Doc. 2011–19211 Filed 7–28–11; 8:45 am]

BILLING CODE 4150–06–P

[1] The 60-day notice included the following estimate of the aggregate burden hours for this generic clearance Federal-wide:

Average Expected Annual Number of Activities: 25,000.

Average Number of Respondents per Activity: 200.

Annual Responses: 5,000,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30.

Burden Hours: 2,500,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Human Immunodeficiency Virus (HIV) Prevention Projects for Young Men of Color Who Have Sex with Men and Young Transgender Persons of Color, Funding Opportunity Announcement (FOA) PS11–1113, initial review.

Correction: The notice was published in the **Federal Register** on July 7, 2011, Volume 76, Number 130, Page 39879. The place should read as follows:

Place: Hilton Atlanta Hotel, 255 Courtland Street, NE., Atlanta, Georgia 30303, *Telephone:* (404) 659–2000.

FOR FURTHER INFORMATION CONTACT: Harriette Lynch, Public Health Analyst, Extramural Programs, National Center for HIV, Hepatitis and Sexually Transmitted Diseases Prevention, CDC, 1600 Clifton Road, NE., Mailstop E–60, Atlanta, Georgia 30333, *Telephone:* (404)498–2726, *E-mail: HLynch@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: July 22, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2011–19288 Filed 7–28–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10333, CMS–10384 and CMS–10371]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Consumer Assistance Program Grants; *Use:* Section 1002 of the Affordable Care Act provides for the establishment of consumer assistance (or ombudsman) programs, starting in FY 2010. Federal grants will support these programs. For FY 2010, $30 million is appropriated. These programs will assist consumers with filing complaints and appeals, assist consumers with enrollment into health coverage, collect data on consumer inquiries and complaints to identify problems in the marketplace, educate consumers on their rights and responsibilities, and starting in 2014, resolve problems with premium credits for Exchange coverage. Importantly, these programs must provide detailed reporting on the types of problems and questions consumers may experience with health coverage, and how these are resolved. In order to strengthen oversight, the law requires programs to report data to the Secretary of the Department of Health and Human Services (HHS) ''As a condition of receiving a grant under subsection (a), an office of health insurance consumer assistance or ombudsman program shall be required to collect and report data to the Secretary on the types of problems and inquiries encountered by consumers'' (Sec. 2793 (d)). *Form Number:* CMS–10333 (OMB–0938–1097); *Frequency:* Quarterly; *Affected Public:* Private Sector: State, Local, or Tribal Governments; *Number of Respondents:* 40; *Number of Responses:* 200; *Total Annual Hours:* 4,800. (For policy questions regarding this collection, contact Eliza Bangit at (301) 492–4219. For all other issues call (410) 786–1326.)

2. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Health Insurance Assistance Database; *Use:* In October 2010, the Office of Consumer Support began to take and respond to direct consumer inquiries related to the Affordable Care Act. As of February 15th 2011, CCIIO has received 906 consumer inquiries. Consumer inquiries continue to come in to CCIIO at a rate of 30 to 35 inquiries per week. Starting in January 2011, the HHS Hotline will begin to refer ACA calls to CCIIO. To date, the HHS Hotline receives, on average, 400 calls per month pertaining to ACA.

Accordingly, a system to collect, track and store consumer information is urgently needed in order to accomplish successful case management to ensure that the information, coverage, and health care needs of consumers are addressed fairly and in a timely fashion. Further, the Team will provide detailed reports on these consumer inquiries with a focus on Affordable Care Act and PHS Act compliance issues. These reports will assist the Office of Oversight in identifying areas where compliance concerns may arise. Reports will be stripped of any information in identifiable form (IIF) and personal health information when written and prepared. Authority for maintenance, collection and disclosures of this information is given under sections 2719, 2723, and 2761 of the Public Health Service Act (PHS Act) and section 1321(c) of the Affordable Care Act.

Analysis of this data reporting will help identity patterns of practice in the insurance marketplaces and uncover suspected patterns of noncompliance. HHS may share program data reports with the Departments of Labor and Treasury, and State regulators. Program data also can offer CCIIO one indication of the effectiveness of State enforcement, affording opportunities to provide technical assistance and support to State insurance regulators and, in extreme cases, inform the need to trigger Federal enforcement. *Form Number:* CMS–10384 (OCN: 0938–New); *Frequency:* Occasionally;

Affected Public: Individuals or households; *Number of Respondents:* 1,200; *Number of Responses:* 1,860; *Total Annual Hours:* 195 (For policy questions regarding this collection, contact Paul Tibbits (301) 492–4229. For all other issues call (410) 786–1326.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges; *Use:* All States and Territories (including the 50 States, consortia of States, and the District of Columbia, herein referred to as States) that received a State Planning and Establishment Grant for Affordable Care Act's Exchanges are eligible for the Cooperative Agreement to Support Establishment of State Operated Insurance Exchanges. The State of Alaska did not apply for either the original Planning grant made available in September 2010, or the second Planning grant made available in January 2011 exclusively to States that did not apply for the first. The Commonwealth of the Northern Mariana Islands did not apply for the Territory Cooperative Agreements for the Affordable Care Act's Exchanges made available in January 2011. Because Alaska and the Northern Mariana Islands did not receive funding under Section 1311 for planning and establishment of an Exchange within one year of the enactment of the Affordable Care Act, by Statute, they will not be eligible for Section 1311 Exchange planning and establishment money in the future. Section 1311(b) of the Affordable Care Act provides the opportunity for each State to establish an Exchange no later than January 1, 2014. Section 1311 of the Affordable Care Act provides for grants to States for the planning and establishment of these Exchanges. Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, Federal requirements, and goals of the statute.

In order to provide appropriate and timely guidance and technical assistance, the Secretary must have access to timely, periodic information regarding State progress. Consequently, the information collection associated with these grants is essential to facilitating reasonable and appropriate Federal monitoring of funds, providing statutorily-mandated assistance to States to implement Exchanges in accordance with Federal requirements, and to ensure that States have all necessary information required to proceed, such that retrospective corrective action can be minimized.

There are two levels of awards for States to apply for the Establishment grants. Each level is based on grantee readiness. Level One Establishment grants are open to States that received Federal funding for Exchange Planning activities and awardees of the Cooperative Agreements to Support Innovative Exchange Information Technology Systems. Level One Establishment cooperative agreements provide one year of funding to States that are ready to initiate establishment activities having made progress under their Exchange Planning grant. Level Two Establishment cooperative agreements are open to States that received Federal funding for Exchange Planning activities and awardees of the Cooperative Agreements to Support Innovative Exchange Information Technology Systems. Level Two Establishment grants are designed to provide funding to applicants who have made significant progress in meeting specific benchmarks in the Exchange establishment process. Level One Establishment grantees may apply for additional funding under Level Two Establishment grants once they have achieved the benchmarks identified in the Level Two Establishment review criteria. The Period of Performance for Level One Establishment grants is one year after date of award. The Period of Performance for Level Two Establishment grants is through December 31, 2014. This funding opportunity was released to forty-nine States and the District of Columbia on January 20, 2011. HHS anticipates making this funding opportunity available to four Territories on August 31, 2011. *Form Number:* CMS–10371 (OCN: 0938–1119); *Frequency:* Annually. *Affected Public:* State, Local, or Tribal Governments. *Number of Respondents:* 54. *Number of Responses:* 756, *Total Annual Hours:* 57,564. (For policy questions regarding this collection contact Leslie Shah at 301–492–4452. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on August 29, 2011.

OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–6974, *E-mail: OIRA_submission@omb.eop.gov.*

Dated: July 26, 2011.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–19260 Filed 7–28–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: ACF–535 LIHEAP Quarterly Allocation Estimates.

OMB No.: 0970–0037.

Description

The LIHEAP Quarterly Allocation Estimates, ACF Form-535 is a one-page form that is sent to 50 State grantees and to the District of Columbia. It is also sent to Tribal Government grantees that receive over $1 million annually for the Low Income Home Energy Assistance Program (LIHEAP). Grantees are asked to complete and submit the form in the 4th quarter of each year. The data collected on the form are grantees estimates of obligations they expect to make each quarter for the upcoming fiscal year for the LIHEAP program. This is the only method used to request anticipated distributions of the grantees LIHEAP funds. The information is used to develop apportionment requests to OMB and to make grant awards based on grantees anticipated needs. Information collected on this form is not available through any other Federal source. Submission of the form is voluntary.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
LIHEAP Quarterly Allocation Estimate, ACF–535	55	1	0.25	13.75

Estimated Total Annual Burden Hours: 13.75.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7285, *E-mail: oira_submission@omb.eop.gov, Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance, Officer.

[FR Doc. 2011–19229 Filed 7–28–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Adoption and Foster Care Analysis and Reporting System (AFCARS), Title IV–B & IV–E.

OMB No.: 0980–0267.

Description: Section 479 of title IV–E of the Social Security Act (the Act) directs States to establish and implement an adoption and foster care reporting system. Federal regulations at 45 CFR 1355.40 sets forth the requirements of section 479 of the Social Security Act for the collection of uniform, reliable information on children who are under the responsibility of the State title IV–B/IV–E agency for placement, care, and adoption. The respondents are child welfare agencies in the 50 States, the District of Columbia, and Puerto Rico.

The data collected will inform State/Federal policy decisions, program management, and responses to Congressional and Departmental inquiries. Specifically, the data are used for short/long-term budget projections, trend analysis, child and family service reviews, and to target areas for improved technical assistance. The data will provide information about foster care placements, adoptive parents, length of time in care, delays in termination of parental rights and placement for adoption.

Respondents:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
AFCARS	52	2	2,581	268,424

Estimated Total Annual Burden Hours: 268,424.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *E-mail address: infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* 202–395–7285, *E-mail: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–19192 Filed 7–28–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0523]

Clinical Investigator Training Course

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of Critical Path Programs and the Clinical Trials Transformation Initiative (CTTI) are cosponsoring a 3-day training course for clinical investigators on scientific, ethical, and regulatory aspects of clinical trials. This training course is intended to provide investigators with expertise in the design, conduct, and analysis of clinical trials; improve the

quality of clinical trials; and enhance the safety of trial participants. Senior FDA staff will communicate directly with clinical investigators on issues of greatest importance for successful clinical research.

Date and Time: The training course will be held on November 7 and 8, 2011, from 8 a.m. to 5 p.m., and on November 9, 2011, from 8 a.m. to 3:30 p.m.

Location: The course will be held at the National Labor College, 10000 New Hampshire Ave., Silver Spring, MD 20903–0002.

Contact Person: Leonard Sacks, Office of Critical Path Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4174, Silver Spring, MD 20993, 301–796–8502.

Registration: Register by October 21, 2011. The registration fee is $400 per person. The fee includes course materials and onsite lunch. Early registration is recommended because seating is limited. There will be no onsite registration.

Register online for the training course at the registration/information Web site at *https://www.trialstransformation.org/fda-clinical-investigator-training-course* or by FAX to 919–660–1769. An e-mail will be sent confirming your registration.

Attendees are responsible for their own accommodations. A block of rooms has been reserved under ''FDA Clinical Investigator Course'' at the National Labor College at a reduced conference rate. Reservations can be made at *https://www.supportnlc.org/Room_Reservations.html* or by calling 301–431–6400. FDA has verified the Web site address, but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.

Registration materials, payment procedures, accommodation information, and a detailed description of the course can be found at *https://www.trialstransformation.org/fda-clinical-investigator-training-course.*

If you need special accommodations due to a disability, please contact Leonard Sacks at least 7 days in advance. Persons attending the course are advised that FDA is not responsible for providing access to electrical outlets.

SUPPLEMENTARY INFORMATION:

I. Background

Clinical trial investigators play a critical role in the development of medical products. They bear the responsibility for ensuring the safe and ethical treatment of study subjects and for acquiring adequate and reliable data to support regulatory decisions. This course is intended to assist clinical investigators in understanding what preclinical and clinical information is needed to support the investigational use of medical products, as well as the scientific, regulatory, and ethical considerations involved in the conduct of clinical trials. The course will cover a wide variety of key topics, including material on novel safety concerns, adverse event monitoring, compliance with the legal and ethical obligations of clinical research, and acceptable scientific and analytic standards in the design and conduct of clinical studies. The faculty will include a diverse representation of senior FDA staff, enabling FDA to communicate directly with clinical investigators on issues of greatest importance for successful clinical research.

II. Description of the Training Course

A. Purpose

The training course is designed to provide clinical investigators with an overview of the following information:

- The essential toxicological, pharmacological, and manufacturing data to support investigational use in humans;
- Fundamental issues in the design and conduct of clinical trials;
- Statistical and analytic considerations in the interpretation of trial data;
- Appropriate safety evaluation during studies; and
- The ethical considerations and regulatory requirements for clinical trials.

In addition, the course should do the following:

- Foster a cadre of clinical investigators with knowledge, experience, and commitment to investigational medicine;
- Promote communication between clinical investigators and FDA;
- Enhance investigators' understanding of FDA's role in experimental medicine; and
- Improve the quality of data while enhancing subject protection in the performance of clinical trials.

B. Proposed Agenda

The course will be conducted over 3 days and will comprise approximately 26 lectures, each lasting between 30 and 45 minutes. The course will be presented mainly by senior FDA staff, with guest lecturers presenting selected topics.

On November 7, 2011, the course will address the role of FDA in clinical studies, regulatory considerations for clinical trials, and review of the material generally appearing in an ''investigator's brochure,'' *i.e.,* the preclinical information (toxicology, animal studies, and chemistry/manufacturing information) that supports initial clinical trials in humans. Presentations will also discuss the role of clinical pharmacology in early clinical studies and how this information is used in the design of subsequent studies. On November 8, 2011, the course will include discussions of scientific, statistical, ethical, and regulatory aspects of clinical studies. On November 9, 2011, participants will choose among three breakout sessions that explain how to put together an application to FDA for drugs, biologics, or devices.

C. Target Audience

The course is targeted at health care professionals responsible for, or involved in, the conduct and/or design of clinical trials.

Dated: July 25, 2011.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2011–19149 Filed 7–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Request for Nominations for Members on a Public Advisory Committee; Medical Imaging Drugs Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for 12 members to serve on the Medical Imaging Drugs Advisory Committee in the Center for Drug Evaluation and Research.

FDA has a special interest in ensuring that women, minority groups, and individuals with physical disabilities are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or physically challenged candidates. Final selection from each vacancy will be determined by the expertise required to meet specific Agency needs and in a manner to ensure appropriate balance on membership.

DATES: Nominations should be received before September 27, 2011.

ADDRESSES: All nominations for membership, except for consumer-nominated members and industry representatives members, should be sent to Minh Doan (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Minh Doan, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 31, rm. 2417, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, E-mail: *MIDAC@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Medical Imaging Drugs Advisory Committee (the Committee). (Elsewhere in this issue of the **Federal Register** is a final rule adding the Medical Imaging Drugs Advisory Committee to the list of FDA standing advisory committees in 21 CFR 14.100 as well as a request for nominations of nonvoting industry representatives, and a request for nominations of voting and nonvoting consumer representatives.)

I. Function

The Committee advises the Commissioner of Food and Drugs or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility. The Committee also reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

II. Criteria for Members

Persons nominated for membership on the Committee must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as nuclear medicine, radiology, epidemiology or statistics, and related specialties.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is up to 4 years.

III. Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on the Committee. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, current business and/or home address, telephone number, and e-mail address if available. Nominations must specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination, unless self-nominated. Potential candidates will be required to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 22, 2011.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2011–19067 Filed 7–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Request for Notification From Consumer Organizations Interested in Participating in the Selection Process for Nominations for Voting and/or Nonvoting Consumer Representatives and Request for Nominations for Voting and/or Nonvoting Consumer Representatives on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may either be self-nominated or may be nominated by a consumer organization. Nominations will be accepted for current vacancies and for those that will or may occur through June 2012.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or e-mail stating that interest to FDA (see **ADDRESSES**) by August 29, 2011, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by August 29, 2011.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be sent electronically to *CV@OC.FDA.GOV,* by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, rm. 5129, Silver Spring MD 20993–0002, or by fax to 301–847–8640. Information about becoming a member of an FDA advisory committee can be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: Doreen Brandes, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 5122, Silver Spring, MD 20993–0002, 301–796–8858, or e-mail: *Doreen.Brandes@fda.hhs.gov.*

For questions relating to specific advisory committees or panels, contact the persons listed in table 2 in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 1 of this document:

TABLE 1

Committee/panel/areas of expertise needed	Current & upcoming vacancies	Approximate date needed
Drug Safety and Risk Communication—Knowledgeable in risk communication, risk management, drug safety, medical, behavioral, and biological sciences as they apply to risk management, and drug abuse.	1-Voting	5/31/12
Gastrointestinal Drugs—Knowledgeable in the fields of gastroenterology, endocrinology, surgery, clinical pharmacology, physiology, pathology, liver function, motility, esophagitis, and statistics.	1-Voting	6/30/12
Medical Imaging—Knowledgeable in the fields of nuclear medicine, radiology, epidemiology or statistics, and related specialties.	1-Voting	immediately
Blood Products—Knowledgeable in the fields of clinical and administrative medicine, hematology, immunology, blood banking, surgery, internal medicine, biochemistry, engineering, biological and physical sciences, biotechnology, computer technology, statistics, epidemiology, sociology/ethics, and other related professions.	1-Voting	immediately
Cellular Tissue and Gene Therapies—Knowledgeable in the fields of cellular therapies, tissue transplantation, gene transfer therapies and xenotransplantation including biostatistics, bioethics, hematology/oncology, human tissues and transplantation, reproductive medicine, general medicine and various medical specialties including surgery and oncology, immunology, virology, molecular biology, cell biology, developmental biology, tumor biology, biochemistry, rDNA technology, nuclear medicine, gene therapy, infectious diseases, and cellular kinetics.	1-Voting	3/31/12
Transmissible Spongiform Encephalopathies—Knowledgeable in the fields of clinical and administrative medicine, hematology, virology, neurovirology, neurology, infectious diseases, immunology, transfusion medicine, surgery, internal medicine, biochemistry, biostatistics, epidemiology, biological and physical sciences, sociology/ethics, and other related professions.	1-Voting	immediately
Vaccines and Related Biological Products—Knowledgeable in the fields of immunology, molecular biology, rDNA, virology, bacteriology, epidemiology or biostatistics, allergy, preventive medicine, infectious diseases, pediatrics, microbiology, and biochemistry.	1-Voting	3/31/12
Radiological Device Panel—Knowledgeable in diagnostic and therapeutic radiological and nuclear medical devices, engineering and operating mechanisms of radiologic devices.	1-Non voting	1/31/12

I. Functions

A. Drug Safety and Risk Management

The Committee reviews and evaluates information on risk management, risk communication, and quantitative evaluation of spontaneous reports for drugs for human use and for any other product for which FDA has regulatory responsibility. The Committee also advises the Commissioner of Food and Drugs (the Commissioner) regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances, and recommends actions to be taken by the Department of Health and Human Services with regard to the marketing, investigation, and control of such drugs or other substances.

B. Gastrointestinal Drugs

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases and makes appropriate recommendations to the Commissioner.

C. Medical Imaging Drugs

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology. (Elsewhere in this issue of the **Federal Register** is a final rule adding the Medical Imaging Drugs Advisory Committee to the list of FDA standing advisory committees in 21 CFR 14.100, as well as a request for nominations of voting members and a request for nominations of nonvoting industry representative members.)

D. Blood Products

The Committee reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of blood products derived from blood and serum or biotechnology which are intended for use in the diagnosis, prevention, or treatment of human diseases as well as the safety, effectiveness, and labeling of the products, on clinical and laboratory studies involving such products, on the affirmation or revocation of biological product licenses, and on the quality and relevance of FDA's research program which provides the scientific support for regulating these products.

E. Cellular Tissue and Gene Therapy

The Committee reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of human cells, human tissues, gene transfer therapies and xenotransplantation products which are intended for transplantation, implantation, infusion, and transfer in the prevention and treatment of a broad spectrum of human diseases and in the reconstruction, repair, or replacement of tissues for various conditions. The Committee also considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products, and makes appropriate recommendations to the Commissioner.

F. Transmissible Spongiform Encephalopathies

The Committee reviews and evaluates available scientific data concerning the safety of products which may be at risk for transmission of spongiform encephalopathies having an impact on the public health, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

G. Vaccines and Related Biologic Products

The Committee reviews and evaluates data concerning the safety, effectiveness, and appropriate use of vaccines and related biological products which are intended for use in the prevention, treatment, or diagnosis of human diseases, and, as required, any other product for which FDA has regulatory responsibility. The Committee also considers the quality

and relevance of FDA's research program which provides scientific support for the regulation of these products and makes appropriate recommendations to the Commissioner.

H. Certain Panels of the Medical Devices Advisory Committee

The Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, advises on the classification or reclassification of devices into one of three regulatory categories; advises on any possible risks to health associated with the use of devices; advises on formulation of product development protocols; reviews premarket approval applications for medical devices; reviews guidelines and guidance documents; recommends exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advises on the necessity to ban a device; and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

II. Criteria for Members

Persons nominated for membership as consumer representatives on the committees or panels should meet the following criteria: (1) Demonstrate ties to consumer and community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing three to five qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or resume. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Potential candidates will be required to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

All nominations should include: A cover letter; a curriculum vitae or resume that includes the nominee's address, telephone number, and e-mail address; and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations also should specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination and is willing to serve as a member of the advisory committee or panel if selected. The term of office is up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of 3 to 5 qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

FDA has a special interest in ensuring that women, minority groups, and individuals with physical disabilities are adequately represented on its advisory committees and panels and, therefore, encourages nominations for appropriately qualified candidates from these groups.

For questions relating to specific advisory committees or panels, contact the following persons listed in table 2 of this document:

TABLE 2

Contact person	Committee/panel
Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg. 31, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, Phone: 301–796–0063, Fax: 301–847–8533, E-mail: *Kristina.Toliver@fda.hhs.gov*.	Drug Safety and Risk Management.
Kristine T. Khuc, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg. 31, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, Phone: 301–796–9005, Fax: 301–847–8533, E-mail: *Kristine.Khuc@fda.hhs.gov*.	Gastrointestinal Drugs.
Minh Doan, Center for Drug Evaluation and Research, Food and Drug Administration, White Oak Bldg. 31, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, Phone: 301–796–9009, Fax: 301–847–8533, E-mail: *ming.doan@fda.hhs.gov*.	Medical Imaging Drugs.

TABLE 2—Continued

Contact person	Committee/panel
Bryan Emery, Center for Biologics Evaluation & Research, Food and Drug Administration, 1401 Rockville Pike (HFM–71), Rockville, MD 20852, Phone: 301–827–1277, Fax: 301–827–0294, E-mail: *bryan.emery@fda.hhs.gov*.	Blood Products and Transmissible Spongiform Encephalopathies.
Gail Dapolito, Center for Biologics Evaluation & Research, Food and Drug Administration, 1401 Rockville Pike (HFM–71), Rockville, MD 20852–1448, Phone: 301–827–1289, Fax: 301–827–0294, E-mail: *gail.dapolito@fda.hhs.gov*.	Cellular Tissue and Gene Therapy.
Donald Jehn, Center for Biologics Evaluation & Research, Food and Drug Administration, 1401 Rockville Pike (HFM–71), Rockville, MD 20852, Phone: 301–827–1293, Fax: 301–827–0294, E-mail: *donald.jehn@fda.hhs.gov*.	Vaccines and Related Biological Products.
Shanika Craig, Center for Devices and Radiological Health, Food and Drug Administration, White Oak Bldg. 66, rm. 1613, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, Phone: 301–796–6639, E-mail: *Shanika.Craig@fda.hhs.gov*.	Radiological Devices Panel.

Dated: July 22, 2011.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2011–19066 Filed 7–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Request for Notification From Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives and Request for Nominations for Nonvoting Industry Representatives on Public Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any industry organizations interested in participating in the selection of nonvoting industry representatives to serve on its public advisory committees for the Center for Drug Evaluation and Research (CDER) notify FDA in writing. FDA is also requesting nominations for nonvoting industry representatives to serve on CDER's public advisory committees. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to the FDA by *August 29, 2011,* for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by *August 29, 2011.*

ADDRESSES: All letters of interest and nominations should be submitted in writing to Cicely Reese (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Cicely Reese, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002. 301–796–9001, e-mail: *Cicely.Reese@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 120 of the FDA Modernization Act of 1997 (FDAMA) (21 U.S.C. 355) requires that newly formed FDA advisory committees include representatives from the drug manufacturing industries. Although not required for committees existing prior to the passage of FDAMA, to keep within the spirit of FDAMA, the Agency has added nonvoting industry representatives to CDER advisory committees identified in the following paragraphs.

I. CDER Advisory Committees

A. Advisory Committee for Pharmaceutical Science and Clinical Pharmacology

Advises on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases.

B. Advisory Committee for Reproductive Health Drugs

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in obstetrics, gynecology, and contraception.

C. Anesthetic and Life Support Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in anesthesiology and surgery.

D. Anti-Infective Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

E. Antiviral Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), HIV-related illnesses, and other viral, fungal, and mycobacterial infections.

F. Arthritis Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of arthritis, rheumatism, and related diseases.

G. Cardiovascular and Renal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders.

H. Dermatologic and Ophthalmic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

I. Drug Safety and Risk Management Advisory Committee

Advises the Commissioner of Food and Drugs (the Commissioner) regarding the scientific and medical evaluation of all information gathered by the

Department of Health and Human Services and the Department of Justice with regard to safety, efficacy, and abuse potential, and risk management, risk communication, and quantitative evaluation of spontaneous reports, and recommends actions to be taken by FDA with regard to marketing, investigation, and control of such drugs or other substances.

J. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

K. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal disorders.

L. Medical Imaging Drugs Advisory Committee

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology. Elsewhere in this issue of the **Federal Register**, FDA is issuing a final rule adding the Medical Imaging Drugs Advisory Committee to the list of FDA standing advisory committees in 21 CFR 14.100, as well as a request for nominations of voting members and a request for nominations of voting and nonvoting consumer representative members.

M. Nonprescription Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

N. Oncologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer.

O. Peripheral and Central Nervous System Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases.

P. Psychopharmacologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the practice of psychiatry and related fields.

Q. Pulmonary-Allergy Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for a particular committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. A current curriculum vitae and the name of the committee of interest should be sent to the FDA contact person (see **FOR FURTHER INFORMATION CONTACT**) within 30 days (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.)

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities, and small businesses are adequately represented on its advisory committees, and therefore, encourages nominations for appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from the drug manufacturing industry.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: July 22, 2011.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2011–19065 Filed 7–28–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: September 1, 2011, 1 p.m. to 5 p.m. EDT, September 2, 2011, 9 a.m. to 12 p.m. EDT.

Place: Parklawn Building (and via audio conference call), Conference Room 10–65, 5600 Fishers Lane, Rockville, MD 20857.

The ACCV will meet on Thursday, September 1 from 1 pm to 5 pm (EDT) and on Friday, September 2 from 9 a.m. to 12 p.m. (EDT). The public can join the meeting via audio conference call by dialing 1–800–369–3104 on September 1 and 2 and providing the following information:

Leader's Name: Dr. Geoffrey Evans.

Password: ACCV.

Agenda: The agenda items for the September meeting will include, but are not limited to: updates from the Division of Vaccine Injury Compensation (DVIC), Department of Justice (DOJ), National Vaccine Program Office (NVPO), Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, Evaluation and Research (Food and Drug Administration). A draft agenda and additional meeting materials will be posted on the ACCV Web site (*http://*

www.hrsa.gov/vaccinecompensation/accv.htm) prior to the meeting. Agenda items are subject to change as priorities dictate.

Public Comment: Persons interested in attending the meeting in person or providing an oral presentation should submit a written request, along with a copy of their presentation to: Annie Herzog, DVIC, Healthcare Systems Bureau (HSB), Health Resources and Services Administration (HRSA), Room 11C–26, 5600 Fishers Lane, Rockville, Maryland 20857 or *e-mail: aherzog @hrsa.gov.* Requests should contain the name, address, telephone number, e-mail address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. DVIC will notify each presenter by e-mail, mail or telephone of their assigned presentation time. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may announce it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the ACCV should contact Annie Herzog, DVIC, HSB, HRSA, Room 11C–26, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–6593 or *e-mail: aherzog@hrsa.gov.*

Dated: July 26, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–19274 Filed 7–28–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 76 FR 18560–18561 dated April 4, 2011).

This notice reflects organizational changes in the Health Resources and Services Administration. Specifically, this notice updates the functional statement for the Maternal and Child Health Bureau (RM) by creating the Division of Home Visiting and Early Childhood Systems (RM8); and moving the Home Visiting function from the Division of Child, Adolescent and Family Health (RM3) to the Division of Home Visiting and Early Childhood Systems (RM8).

Chapter RM—Maternal and Child Health Bureau

Section RM–10, Organization

Delete in its entirety and replace with the following:

The Office of the Associate Administrator (RM) is headed by the Associate Administrator, Maternal and Child Health Bureau (MCHB), who reports directly to the Administrator, Health Resources and Services Administration. MCHB includes the following components:

(1) Office of the Associate Administrator (RM);

(2) Office of Operations and Management (RM1);

(3) Division of Services for Children with Special Health Needs (RM2);

(4) Division of Child, Adolescent and Family Health (RM3);

(5) Division of Research, Training and Education (RM4);

(6) Division of Healthy Start and Perinatal Services (RM5);

(7) Division of State and Community Health (RM6);

(8) Office of Epidemiology, Policy and Evaluation (RM7); and

(9) Division of Home Visiting and Early Childhood Systems (RM8).

Section RM–20, Functions

(1) Delete the functional statement for the Division of Child, Adolescent and Family Health (RM3) and replace in its entirety; (2) establish the Division of Home Visiting and Early Childhood Systems (RM8); and (3) move the Home Visiting function from the Division of Child, Adolescent and Family Health (RM3) to the newly established Division of Home Visiting and Early Childhood Systems (RM8).

Division of Child, Adolescent, and Family Health (RM3)

The Division of Child, Adolescent, and Family Health provides national leadership in planning, directing, coordinating, monitoring, and evaluating national programs focusing on the promotion of health and prevention of disease and injury among children, adolescents, young adults and their families with special emphasis on the development and implementation of family-centered, comprehensive, coordinated, community-based and culturally competent systems of care for such populations. Specifically, the Division: (1) Administers a program which supports the development of systems of care and services for children, adolescents, young adults and their families; (2) develops policies and guidelines and promulgates standards for professional services and effective organization and administration of health programs for children, adolescents, young adults and their families; (3) accounts for the administration of funds and other resources for grants, contracts, and programmatic consultation and assistance; (4) coordinates with MCHB Divisions and Offices in promoting program objectives and the mission of the Bureau; (5) serves as the focal point within the Bureau in implementing programmatic statutory requirements for State programs for children, adolescents, young adults and their families; (6) provides consultation and technical assistance to State programs for children, adolescents, young adults and their families and to local communities, consistent with a Bureau-wide technical assistance consultation plan, working with other agencies and organizations; (7) provides liaison with public, private, professional and voluntary organizations on programs designed to improve services for children, adolescents, young adults and their families; (8) carries out a national program supporting Child Death Review systems; (9) carries out a national program on school health activities; (10) carries out a national program designed to improve the provision of emergency medical services for children; (11) carries out a national program designed to improve the provision of oral health services for children; (12) carries out a national program on injury prevention for children and adolescents; (13) coordinates within this Agency and with other Federal programs (particularly Title XIX of the Social Security Act) to extend and improve comprehensive, coordinated services and promote integrated State-based systems of care for children, adolescents, young adults and their families; (14) disseminates information on preventive health services and advances in the care and treatment of children, adolescents, young adults and their families; (15) participates in the development of strategic plans, regulatory activities, policy papers, legislative proposals, and budget submissions relating to health services

for children, adolescents, young adults and their families; (16) provides a focus for international health activities for the Bureau for services for children, adolescents, and their families; and (17) administers funds and other resources for grants, contracts, and cooperative agreements.

Division of Home Visiting and Early Childhood Systems (RM8)

The Division of Home Visiting and Early Childhood Systems plans, develops, implements, directs, monitors, and evaluates national programs to promote, improve, and maintain the health and development of young children (through 8 years of life) and their families. Specifically, the Division conducts the following activities: (1) Serves as a national focus for leadership in and coordination of Federal, regional, State, local, and non-governmental efforts to define the health and development issues of young children and their relationship to the family to identify problems and opportunities and assist in the development of programs that address such problems and promote opportunities to enhance wellness; (2) develops, interprets, and/or disseminates policies, regulations, standards, guidelines, new knowledge, and program information for the various programs and relevant services; (3) establishes and maintains cooperative relationships within this Agency, with other Federal agencies, and with other relevant public and private organizations to extend and improve health, safety, research, educational and training programs focused on young children and their families; (4) carries out, in collaboration with the Administration for Children and Families, a national maternal, infant and early childhood home visiting program; (5) administers and manages a program of grants and contracts that will enhance services to improve and promote the health and safety of young children and their families; (6) coordinates within this Agency and with other Federal programs to extend and improve comprehensive coordinated services and promote integrated state-based systems of care for this population; and (7) provides technical assistance and professional consultation to field and headquarters staff, to State and local health personnel, to other Federal agencies, and to voluntary and professional organizations on all aspects of health and safety and provision of appropriate care for this population.

Section RM–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is upon date of signature.

Dated: July 25, 2011.

Mary K. Wakefield,

Administrator.

[FR Doc. 2011–19272 Filed 7–28–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Establishment of the Advisory Committee to the Deputy Director for Intramural Research

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. App), the Director, National Institutes of Health (NIH), announces the establishment of the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health (ACDDIR).

The ACDDIR will provide advice and recommendations to the Deputy Director for Intramural Research, NIH, or other appropriate delegated officials on matters related to the Office of Intramural Research and include (1) the Office of Intramural Training and Education; (2) the Office of Animal Care and Use; (3) the Office of Human Subjects Research; (4) the Office of NIH History; (5) the Office of Technology Transfer; and (6) any other program located in the Office of Intramural Research. Advice provided may include specific accomplishments, overall strengths and weaknesses of a particular program, as well as recommendations for future directions, the overall design, content, development and/or delivery of training programs to specific groups, as well as recommendations concerning program and policy development and resource allocation.

Duration of this committee is two years from the date the Charter is filed.

Dated: July 20, 2011.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2011–19226 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Teddy Coordinating Center.

Date: August 5, 2011.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: D.G. Patel, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–19271 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development, Special Emphasis Panel, Molecular Basis of Pediatric Formulation Design.

Date: August 16, 2011.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6680, *skandasa@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 22, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–19228 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development, Special Emphasis Panel, ZHD1 DSR–H 51.

Date: August 3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marita R. Hopmann, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: July 22, 2011.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–19227 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: December 12–14, 2011.

Time: December 12, 2011, 7:45 a.m. to 6:35 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, Conference Room 1227/1233, 50 Center Drive, Bethesda, MD.

Time: December 13, 2011, 7:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, Conference Room 1227/1233, 50 Center Drive, Bethesda, MD.

Time: December 14, 2011, 8 a.m. to 11:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, Conference Room 1227/1233, 50 Center Drive, Bethesda, MD.

Contact Person: Kathryn C. Zoon, PhD, Director, Division of Intramural Research, National Institute of Allergy and Infectious Diseases, NIH, Building 31, Room 4A30, Bethesda, MD 20892, 301–496–3006, *kzoon@niaid.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–19269 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings 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 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 Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: September 7, 2011.

Open: 8:30 a.m. to 12 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: 3:45 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, PhD, Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Digestive Diseases and Nutrition Subcommittee.

Date: September 7, 2011.

Open: 1 p.m. to 1:45 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 1:45 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, PhD, Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Kidney, Urologic, and Hematologic Diseases Subcommittee.

Date: September 7, 2011.

Open: 1 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, PhD, Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council, Diabetes, Endocrinology, and Metabolic Diseases Subcommittee.

Date: September 7, 2011.

Closed: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: 2:30 p.m. to 3:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, PhD, Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd. Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 25, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–19264 Filed 7–28–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1994–DR; Docket ID FEMA–2011–0001]

Massachusetts; 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 Commonwealth of Massachusetts (FEMA–1994–DR), dated June 15, 2011, and related determinations.

DATES: *Effective Date:* July 21, 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 Commonwealth of Massachusetts 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 June 15, 2011.

The Towns of Southbridge and Sturbridge in Worcester County 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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–19246 Filed 7–28–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1981–DR; Docket ID FEMA–2011–0001]

North Dakota; Amendment No. 7 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 North Dakota (FEMA–1981–DR), dated May 10, 2011, and related determinations.

DATES: *Effective Date:* July 20, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 20, 2011.

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.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–19247 Filed 7–28–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–70]

Notice of Submission of Proposed Information Collection to OMB; Innovation of the Day

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.

''Innovation of the Day'' is a new online submission and display platform located on HUD.gov, facilitated through the Office for International and Philanthropic Innovation (IPI) in PD&R at HUD. The simple and intuitive platform is designed to seek out and lift up the best models, practices and systems in the area of housing and community development, from both inside and outside HUD, and expose them to the public through continuous updates to the Innovation of the Day Web site. The submissions will be available to HUD and non-HUD employees to encourage a synergy within and without on these kinds of innovations.

DATES: *Comments Due Date: August 29, 2011.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA–Submission@omb.eop.gov; fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Innovation of the Day.

OMB Approval Number: 2528–Pending.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use

''Innovation of the Day'' is a new online submission and display platform located on *HUD.gov,* facilitated through the Office for International and Philanthropic Innovation (IPI) in PD&R at HUD. The simple and intuitive platform is designed to seek out and lift up the best models, practices and systems in the area of housing and community development, from both inside and outside HUD, and expose them to the public through continuous updates to the Innovation of the Day Web site. The submissions will be available to HUD and non-HUD employees to encourage a synergy within and without on these kinds of innovations.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3,650	1		0.166		608

Total Estimated Burden Hours: 608.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 25, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–19289 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–71]

Notice of Submission of Proposed Information Collection to OMB; Application for Technical Assistance for Community Planning and Development (CPD) Programs

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.

Application for technical assistance funds with which CPD grantees will engage providers to supply expertise to shape their resources into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their communities.

DATES: *Comments Due Date:* August 29, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0166) 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 affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including 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 Technical Assistance for Community Planning and Development (CPD) Programs.

OMB Approval Number: 2506–0166.

Form Numbers: SF–424, HUD–424–CB, HUD–424–CBW, SF–424 Supplement; SF–LLL, HUD–2880, SF–425; HUD–40040; HUD–40044.

Description of the Need for the Information and Its Proposed Use: Application for technical assistance funds with which CPD grantees will engage providers to supply expertise to shape their resources into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their communities.

Frequency of Submission: On Occasion, Quarterly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	100	12.32		6.446		7,942

Total Estimated Burden Hours: 7,942.

Status: Reinstatement with change of a previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 25, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–19286 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–69]

Notice of Submission of Proposed Information Collection to OMB; Evaluation of the Department of Housing and Urban Development's Office of University Partnerships

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.

The Department of Housing and Urban Development (HUD) is conducting an evaluation of four grant programs funded through HUD's Office of University Partnerships (OUP). The four OUP programs are: Historically Black Colleges and Universities (HBCU);

Hispanic-Serving Institutions Assisting Communities (HSIAC); Alaskan Native/ Native Hawaiian Institutions Assisting Communities (ANNHIAC); and Tribal Colleges and Universities Program (TCUP). These programs were designed to encourage and expand the growing number of partnerships formed between colleges and universities and their communities. Program grants are used to fund community development activities in disadvantaged communities and to encourage minority-serving colleges and universities to contribute their technical expertise, organizational capacity, and resources to local community development efforts.

There has been no prior evaluation of the outcomes or impacts of activities funded through OUP grants, which have an average annual value of $25 million. Therefore, this evaluation will be the first to systematically document program outcomes and to explore how factors such as partnership structure or the types of activities completed with grant funds affect outcomes for OUP grants. In addition, the study will help the Office of University Partnerships better understand the challenges that grantees face in implementing grant-funded activities. The results of the evaluation will assist the Department in designing grant programs in the future. This request is for data collection through a web survey and telephone interviews with 67 OUP grant recipients. The web survey instrument and telephone interview protocol are provided in Appendices 5 and 6, respectively. Together, the web survey and telephone interviews will be used to collect in-depth information about the activities funded with OUP grants. The web survey will be used to develop a comprehensive list of activities undertaken by grantees, and to document the partners and additional funding used to support OUP-funded activities. The telephone interviews will focus on two non-trivial activities per grantee (an activity will be considered non-trivial if more than 20 percent of grant funds from a given OUP grant were dedicated to it). The evaluation team will use the telephone interviews to collect more detailed information on the goals, accomplishments, and beneficiaries of the activities, as well as the partnership structures used to implement funded activities.

DATES: *Comments Due Date:* August 29, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528-Pending) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA-Submission@omb.eop.gov fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Evaluation of the Department of Housing and Urban Development's Office of University Partnerships.

OMB Approval Number: 2528–Pending.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: The Department of Housing and Urban Development (HUD) is conducting an evaluation of four grant programs funded through HUD's Office of University Partnerships (OUP). The four OUP programs are: Historically Black Colleges and Universities (HBCU); Hispanic-Serving Institutions Assisting Communities (HSIAC); Alaskan Native/ Native Hawaiian Institutions Assisting Communities (ANNHIAC); and Tribal Colleges and Universities Program (TCUP). These programs were designed to encourage and expand the growing number of partnerships formed between colleges and universities and their communities. Program grants are used to fund community development activities in disadvantaged communities and to encourage minority-serving colleges and universities to contribute their technical expertise, organizational capacity, and resources to local community development efforts.

There has been no prior evaluation of the outcomes or impacts of activities funded through OUP grants, which have an average annual value of $25 million. Therefore, this evaluation will be the first to systematically document program outcomes and to explore how factors such as partnership structure or the types of activities completed with grant funds affect outcomes for OUP grants. In addition, the study will help the Office of University Partnerships better understand the challenges that grantees face in implementing grant-funded activities. The results of the evaluation will assist the Department in designing grant programs in the future.

This request is for data collection through a web survey and telephone interviews with 67 OUP grant recipients. The web survey instrument and telephone interview protocol are provided in Appendices 5 and 6, respectively. Together, the web survey and telephone interviews will be used to collect in-depth information about the activities funded with OUP grants. The web survey will be used to develop a comprehensive list of activities undertaken by grantees, and to document the partners and additional funding used to support OUP-funded activities. The telephone interviews will focus on two non-trivial activities per grantee (an activity will be considered non-trivial if more than 20 percent of grant funds from a given OUP grant were dedicated to it). The evaluation team will use the telephone interviews to collect more detailed information on the goals, accomplishments, and beneficiaries of the activities, as well as the partnership structures used to implement funded activities.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	67	2		0.664		89

Total Estimated Burden Hours: 89.
Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 25, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–19290 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–72]

Notice of Submission of Proposed Information Collection to OMB; Application for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG)

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.

Application for funding of Indian and Alaska Native Community Development Block Grants for the development of decent housing, environment and economic opportunities for low and moderate-income persons. For the Indian Community Development Block Grant (ICDBG) Program, tribes are required to keep records of activities. These records include statements of conditions, certifications of activities/plans and other items. This paperwork submission addresses the final rule for recordkeeping and reporting requirements involved in implementing subsection (h) of the 1974 Housing and Community Development Act by revising HUD's ICDBG program regulations at 24 CFR 1003 implements § 1003.209 entitled ''Prohibition on use of assistance for employment relocation activities'' which describes the ICDBG ''job pirating'' provisions. The final rule also amends § 1003.505 entitled ''Records to be Maintained'' to ensure that appropriate recordkeeping requirements are followed.

DATES: *Comments Due Date:* August 29, 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 (2577–0191) 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 the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (ICDBG).

OMB Approval Number: 2577–0191.

Form Numbers: HUD 2516, SF 425, SF 424 Supp, HUD 96010, SF 269, SF 272, HUD 4123, HUD 4125, SF 424, HUD 2880, HUD 2993, HUD 2994–A.

Description of the Need for the Information and Its Proposed Use: Application for funding of Indian and Alaska Native Community Development Block Grants for the development of decent housing, environment and economic opportunities for low and moderate-income persons. For the Indian Community Development Block Grant (ICDBG) Program, tribes are required to keep records of activities. These records include statements of conditions, certifications of activities/plans and other items. This paperwork submission addresses the final rule for recordkeeping and reporting requirements involved in implementing subsection (h) of the 1974 Housing and Community Development Act by revising HUD's ICDBG program regulations at 24 CFR 1003 implements § 1003.209 entitled ''Prohibition on use of assistance for employment relocation activities'' which describes the ICDBG ''job pirating'' provisions. The final rule also amends § 1003.505 entitled ''Records to be Maintained'' to ensure that appropriate recordkeeping requirements are followed.

Frequency of Submission: On occasion, Annually.

	Number of respondents	Annual responses	x	Hours per response	=	Burden hours
Reporting Burden	225	4.177		10.739		10,095

Total Estimated Burden Hours: 10,095.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 25, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–19282 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5541–D–01]

Delegation of Authority for the Office of Healthy Homes and Lead Hazard Control

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Delegation of Authority.

SUMMARY: Under the Residential Lead-Based Paint Hazard Reduction Act of 1992, the Office of Healthy Homes and Lead Hazard Control (OHHLHC) is authorized to develop, demonstrate, and promote measures to correct lead-based paint-related health and safety hazards in the home environment that affect children, particularly of low-income families. In this notice, the Secretary delegates to the Director, OHHLHC, all authority pursuant to the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, sections 501 and 502 of the Housing and Urban Development Act of 1970, and authorizing legislation pertaining to healthy homes and lead hazard control contained within annual appropriations acts, for matters pertaining to healthy homes and lead hazard control. This includes oversight and enforcement of the Lead Disclosure Rule as well as oversight of the Lead Safe Housing Rule for all HUD programs and enforcement of the Lead Safe Housing Rule for Multifamily Housing programs, the Single Family Asset Management program, and Public and Indian Housing (PIH) programs. PIH enforcement actions include coordination with the appropriate PIH field office.

DATES: *Effective Date:* July 15, 2011.

FOR FURTHER INFORMATION CONTACT: Matthew Ammon, Deputy Director, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 7th Street, SW., Room 8236, Washington, DC 20410, telephone number 202–402–4339 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: OHHLHC was created by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1992 (Pub. L. 102–139, October 28, 1991). Under the Residential Lead-Based Paint Hazard Reduction Act of 1992, OHHLHC is authorized to develop, demonstrate, and promote measures to correct lead-based paint related health and safety hazards in the home environment that affect children, particularly of low-income families. Today's delegation also supersedes all prior delegations of authority for OHHLHC.

Section A. Authority Delegated

The Secretary hereby delegates to the Director, OHHLHC, all authority of the Secretary pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 *et seq.*), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*), sections 501 and 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1 and 1701z–2), and authorizing legislation pertaining to healthy homes and/or lead hazard control contained within annual appropriations acts for matters pertaining to healthy homes and/or lead hazard control. This includes the oversight and enforcement of the Lead Disclosure Rule and the oversight of the Lead Safe Housing Rule (24 CFR part 35, subparts A through R) for all HUD programs and enforcement of the Lead Safe Housing Rule for Multifamily Housing programs, the Single Family Asset Management program, and PIH programs. PIH enforcement actions include coordination with the appropriate PIH field office.

Section B. Authority Excepted

The authority delegated in this document does not include the authority to sue or be sued or to issue or waive regulations.

Section C. Authority To Redelegate

The Secretary authorizes the Director, OHHLHC, to redelegate the authority described in Section A.

Section D. Authority Superseded

This delegation supersedes all previous delegations of authority to OHHLHC. The Secretary may revoke the authority authorized herein, in whole or part, at any time.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 15, 2011.

Shaun Donovan,

Secretary.

[FR Doc. 2011–19279 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–30]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the

property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *COE:* Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street, NW., Washington, DC 20314; (202) 761–5542; *NAVY:* Mr. Albert Johnson, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202)685–9305; (These are not toll-free numbers).

Dated: July 21, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 07/29/2011

Unsuitable Properties

Building

Hawaii

Facility 1680
Basketball Court
JBPHH HI 96860
Landholding Agency: Navy
Property Number: 77201130011
Status: Excess
Reasons: Secured Area

Illinois

Bldg. 533
2130 Paul Jones St.
Great Lakes IL
Landholding Agency: Navy
Property Number: 77201130001
Status: Unutilized
Reasons: Secured Area

Maryland

11 Bldgs.
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130002
Status: Excess
Directions: T–1, T–6, T–8, T–19, T–20, T–21, T–31, T–37, T–41, T–42, T–51
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Stump Neck Annex
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130003
Status: Excess
Directions: 2010, 2047, 2073, 2096
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 1738
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration, Secured Area

Bldg. 4SN
Stump Neck Annex
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

11 Bldgs.
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130006
Status: Excess
Directions: 823, 833, 1012, 1018, 1041, 1050, 1143, 1371, 1559, 1688, 1737
Reasons: Secured Area, Extensive deterioration, Within 2000 ft. of flammable or explosive material

12 Bldgs.
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130007
Status: Excess
Directions: 204, 270, 295, 295A, 295B, 296, 616, 624, 629, 658, 665, 742
Reasons: Extensive deterioration, Within airport runway clear zone, Secured Area

2 Bldgs.
Stump Neck Annex
Indian Head MD
Landholding Agency: Navy
Property Number: 77201130008
Status: Excess
Directions: 7SN and 39SN
Reasons: Within 2000 ft. of flammable or explosive material, Extensive deterioration, Secured Area

Bldgs. T–69 and T–73
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130009
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldgs. T–52 and T–54
101 Strauss Ave.
Indian Head MD 20640
Landholding Agency: Navy
Property Number: 77201130010
Status: Excess
Reasons: Secured Area, Extensive deterioration, Within airport runway clear zone

Texas

2 Bldgs.
Whitney Lake
Clifton TX 76634
Landholding Agency: COE
Property Number: 31201130001
Status: Underutilized
Directions: 27069 and 27070
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

[FR Doc. 2011–19114 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5551–N–01]

Mortgagee Review Board: Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In compliance with Section 202(c)(5) of the National Housing Act, this notice advises of the cause and describes the administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: Nancy A. Murray, Secretary to the Mortgagee Review Board, Department of Housing and Urban Development, 451 7th Street, SW., Room B–133/3150, Washington, DC 20410–8000; telephone 202–708–2224 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (12 U.S.C. 1708(c)(5)), requires that HUD ''publish a description of and the cause for administrative action against a HUD-approved mortgagee'' by the Department's Mortgagee Review Board (''Board''). In compliance with the requirements of section 202(c)(5), this notice advises of actions that have been taken by the Board from October 23, 2009, to February 7, 2011.

I. Settlement Agreements, Civil Money Penalties, Withdrawals of Federal Housing Administration (FHA) Approval, Suspensions, Probations, Reprimands, and Administrative Payments

1. 1st Continental Mortgage, Inc., Ft. Lauderdale, FL [Docket No. 10–1682–MR]

Action: On October 28, 2010, the Board issued a Notice of Administrative Action permanently withdrawing the FHA approval of 1st Continental Mortgage, Inc. (''1st Continental'').

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: 1st Continental failed to maintain and implement a Quality Control (''QC'') Plan; failed to implement and follow HUD/FHA's Home Equity Conversion Mortgage (HECM) program requirements; charged borrowers excessive and duplicative fees; failed to disclose all charges to borrowers on the Good Faith Estimates; and submitted a false certification to HUD on its Title II annual Verification Report.

2. Action Mortgage Corporation, Cranston, RI [Docket No. 10–1855–MR]

Action: On August 23, 2010, the Board issued a Notice of Administrative Action immediately suspending the FHA approval of Action Mortgage Corporation (''AMC'') pending the completion of an investigation by the Office of Inspector General and my resulting legal proceedings.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: AMC failed to timely notify HUD that one of its officers had been indicted for an offense that reflected upon AMC's responsibility and integrity and its ability to participate in HUD programs; and AMC failed to timely notify HUD that the State of Rhode Island suspended its mortgage origination license.

3. Alacrity Lending Company, Southlake, TX [Docket No. 09–9912]

Action: On January 10, 2011, the Board entered into a settlement agreement with Alacrity Lending Company (''Alacrity'') pursuant to which the Board withdrew Alacrity's FHA Approval for a period of three years and conditioned Alacrity's future ability to participate in FHA programs upon HUD's approval of a new application for FHA approval, and Alacrity, without admitting fault or liability, agreed to pay a civil money penalty in the amount of $237,500.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Alacrity failed to implement a QC Plan in compliance with HUD/FHA requirements; failed to provide a disclosure of a Controlled Business Arrangement when a settlement service provider was involved in the loan transaction with whom the lender had an ownership or other beneficial interest; failed to report serious violations identified during a QC review; failed to ensure that HUD/FHA's Construction-Permanent Mortgage Program requirements were met; failed to ensure that maximum mortgage amounts were properly calculated, resulting in over-insured mortgages; failed to ensure that there were no discrepancies between disbursements and/or sales prices on HUD–1 settlement statements or documents used to calculate loan amounts; failed to ensure that appraisal report findings were consistent or otherwise acceptable; and failed to ensure that properties located in Special Flood Hazard Areas were properly covered with flood insurance.

4. Allied Home Mortgage Corporation, Houston, Texas [Docket No. 10–1709–MR]

Action: On October 20, 2010, the Board entered into a settlement agreement with Allied Home Mortgage Corporation (''AHMC'') that required AHMC, without admitting fault or liability, to pay a civil money penalty in the amount of $46,000; to curtail the principal balance on one loan by the amount of $1,210; to refund $1,495 of fees to two borrowers; to pay the amount of $57,442.23 to indemnify HUD for losses incurred in connection with one loan; and to indemnify HUD for a period of five years for any losses that it may incur in connection with five loans.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: AHMC approved loans with debt-to-income ratios that exceeded HUD/FHA standards without significant compensating factors; failed to properly calculate and/or document the income used to qualify borrowers; improperly omitted recurring liabilities from underwriting analyses; failed to properly document the source of gift funds or assets; failed to ensure that the maximum insured mortgage amount was properly calculated, resulting in an over-insured mortgage; charged unallowable fees to mortgagors and collected processing fees from borrowers which it then paid directly to a contract processing company; and intermingled its business processes with those of Allied Home Mortgage Capital Corporation in violation of HUD/FHA requirements for a clear and effective separation of the two companies.

5. Allied Home Mortgage Capital Corporation, Houston, Texas [Docket No. 10–1961–MR]

Action: On September 2, 2010, the Board entered into a settlement agreement with Allied Home Mortgage Capital Corporation (''Allied'') that required Allied to pay a civil money penalty in the amount of $38,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Allied failed to pay the required core operating costs for its branch offices.

6. Amarillo National Bank, Amarillo, TX [Docket No. 10–1928–MR]

Action: On December 28, 2010, the Board entered into a settlement agreement with Amarillo National Bank (''Amarillo'') that required Amarillo to pay a civil money penalty in the amount of $13,600 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Amarillo failed to include mandatory elements in its adopted QC Plan; failed to conduct mandatory QC servicing reviews; failed to timely notify HUD of changes in the mortgagor and/or servicer of FHA-insured loans; failed to timely notify HUD and terminate insurance after FHA-insured loans were paid in full; and failed to properly report loan statuses and reasons for default into HUD's Single Family Default Monitoring System.

7. American Mortgage Group, Inc., Anthem, AZ [Docket No. 10–0010–MR]

Action: On November 1, 2010, the Board issued a Notice of Administrative Action withdrawing the FHA approval of American Mortgage Group, Inc. (''AMG'') for one year.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: AMG failed to notify HUD within ten days of its entrance into two consent orders with the State of Arizona, Department of Financial Institutions, and failed to notify HUD of changes to its contact information.

8. Bernard Mortgage Corporation, Chicago, IL [Docket No. 10–2001–MR]

Action: On October 28, 2010, the Board issued a Notice of Administrative Action withdrawing the FHA approval of Bernard Mortgage Corporation (''BMC'') for one year.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: BMC failed to notify HUD within ten days of changes affecting its standing as an approved institution.

9. Cambridge Home Capital, LLC, Great Neck, NY [Docket No. 10–1806–MR]

Action: On December 10, 2010, the Board issued a Notice of Administrative Action permanently withdrawing the FHA approval of Cambridge Home Capital, LLC (''Cambridge''), and imposing civil money penalties against Cambridge in the amount of $182,000.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Cambridge failed to maintain and implement a QC Plan in accordance with HUD/FHA requirements; failed to adequately document the stability and/or source of income used to qualify borrowers; approved loans with ratios that exceeded HUD/FHA requirements without significant compensating factors; and used conflicting information in originating loans and obtaining HUD/FHA mortgage insurance.

10. Catalyst Lending, Inc., Greenwood Village, CO [Docket No. 10–1797–MR]

Action: On November 17, 2010, the Board entered into a settlement agreement with Catalyst Lending, Inc. (''Catalyst'') that required Catalyst to pay a civil money penalty in the amount of $50,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Catalyst violated HUD/FHA requirements for a clear and effective separation of two mortgage companies; submitted false certifications to HUD in connection with transactions in which Catalyst allowed non-employees to originate FHA loans; violated HUD/FHA minimum staffing requirements by allowing one of its branch offices to operate without a branch manager; implemented a written employee policy and executed contractual agreements that violated HUD/FHA requirements; processed a HECM loan prior to the borrower's receipt of HECM counseling; and charged unallowable, unearned and/or unsupported fees.

11. Community Lender, Inc., Boise, ID [Docket No. 09–9843–MRT]

Action: On October 30, 2009, the Board issued a Letter of Reprimand to Community Lender, Inc. (''CLI'').

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: CLI failed to notify HUD that the Idaho Department of Finance revoked CLI's lender license.

12. DAS Acquisition, LLC, St. Louis, Missouri [Docket No.10–1925–MR]

Action: On November 8, 2010, the Board entered into a Settlement Agreement with DAS Acquisition, LLC (''DAS'') that required DAS to pay a civil money penalty in the amount of $100,000 without admitting fault or liability. The Board also issued DAS a Letter of Reprimand.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: DAS failed to file Home Mortgage Disclosure Act (''HMDA'') and Regulation C-compliant reports for calendar years 2005, 2006, and 2007.

13. Equitable Trust Mortgage Corporation, Baltimore, MD [Docket No. 09–9604–MR]

Action: On September 30, 2010, the Board issued a Notice of Administrative Action immediately withdrawing the FHA approval of Equitable Trust Mortgage Corporation (''Equitable'') for a period of five years.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Equitable failed to comply with the terms of a settlement agreement entered into with HUD on December 14, 2009, and amended on March 17, 2010.

14. First Ohio Banc and Lending, Inc., Independence, MO [Docket No. 09–9599–MR]

Action: On October 8, 2010, the Board entered into a settlement agreement with First Ohio Banc and Lending, Inc. (''First Ohio'') that required First Ohio to pay a civil money penalty in the amount of $12,000 without admitting fault or liability.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: First Ohio failed to ensure that loan applications were processed by authorized employees who worked exclusively for First Ohio.

15. Golden First Mortgage Corporation, Great Neck, NY [Docket No. 10–1927–MR]

Action: On August 13, 2010, the Board issued a Notice of Administrative Action immediately and permanently withdrawing the FHA approval of Golden First Mortgage Corporation (''Golden First'').

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: Golden First failed to notify HUD that it voluntarily surrendered its state license to originate mortgages and that one of its officers agreed to pay a civil money penalty in the amount of fifty-thousand dollars ($50,000) to resolve a matter with the Office of Thrift Supervision (OTS).

16. Guild Mortgage Company, San Diego, CA [Docket No.10–1678–MR]

Action: On October 8, 2010, the Board entered into a settlement agreement with Guild Mortgage Company (''Guild'') that required Guild to pay a civil money penalty in the amount of $123,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Guild failed to notify HUD within fifteen days of the termination of contracts for mortgage insurance and failed to timely remit mortgage insurance premiums.

17. Hartland Mortgage Centers, Inc., Woodbridge, IL [Docket No. 10–1823–MR]

Action: On December 28, 2010, the Board entered into a settlement agreement with Hartland Mortgage Centers, Inc. (''Hartland'') that required Hartland to pay a civil money penalty in the amount of $7,500 without admitting fault or liability.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: Hartland distributed an advertisement that misrepresented HUD/FHA's HECM program requirements in a mailer envelope that simulated a government form.

18. KRK Financial Services, Inc., Chicago, IL [Docket No. 09–9158–MR]

Action: On December 23, 2010, the Board issued a Notice of Administrative Action withdrawing the FHA approval of KRK Financial Services, Inc. (''KRK'') for a period of one year.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: KRK failed to notify HUD that the Illinois Department of Financial and Professional Regulation, Division of Banking, revoked its license and assessed it a fine of $100,000.

19. Mortgage Line Financial Corp., Woodbury, NY [Docket No. 10–1968–MR]

Action: On October 28, 2010, the Board issued a Notice of Administrative Action withdrawing the FHA approval of Mortgage Line Financial Corp. (''MLFC'') for one year.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: MLFC failed to notify HUD that it ceased its business operations.

20. New England Regional Mortgage Corporation, Salem, New Hampshire [Docket No. 10–1636–MR]

Action: On October 18, 2010, the Board entered into a settlement agreement with New England Regional Mortgage Corporation (''New England'') that required New England, without admitting fault or liability, to pay a civil money penalty of $3,500 and to buy down an over-insured mortgage in the amount of $6,353.04.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: New England approved a loan that exceeded HUD's maximum mortgage amount.

21. RSA Financial Inc., Atlanta, GA [Docket No. 10–1037–MR]

Action: On March 29, 2010, the Board issued a Notice of Administrative Action immediately and permanently withdrawing the FHA approval of RSA Financial (RSA). RSA appealed this action, and on June 22, 2010, RSA entered into a settlement agreement with the Board under which RSA accepted its immediate and permanent withdrawal.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: RSA failed to comply with a condition of its FHA approval and submitted false and misleading information to HUD in connection with its application for FHA approval.

22. Somerset Investors Corporation, Melville, NY [Docket No. 10–1706–MR]

Action: On October 28, 2010, the Board issued a Notice of Administrative Action permanently withdrawing the FHA approval of Somerset Investors Corporation (''Somerset'').

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Somerset approved loans that did not meet HUD/FHA's minimum credit requirements; failed to adequately document the income used to qualify the borrower; used conflicting information in originating and obtaining HUD/FHA mortgage insurance; failed to document the source of funds used for the down payment and/or closing costs; approved loans with debt-to-income ratios that exceeded HUD/FHA standards without significant compensating factors; omitted liabilities from the underwriting analysis without adequate documentation; charged borrowers unallowable fees; and failed to timely notify HUD of a state sanction.

23. Taylor, Bean & Whitaker Mortgage Corp., Ocala, FL [Docket No. 09–9607–MR]

Action: On October 28, 2010, the Board issued a Notice of Administrative Action permanently withdrawing the FHA approval of Taylor, Bean & Whitaker Mortgage Corp. (''TBW''). TBW consented to the permanent withdrawal of its FHA approval, without admitting or denying the Board's factual allegations, under the terms of a Consent Order entered into with HUD on February 7, 2011.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: TBW failed to place delinquent borrowers in the correct loss mitigation/disposition options; failed to analyze borrowers for loss mitigation in a timely manner; failed to perform management/foreclosure reviews; failed to input accurate codes into HUD/FHA's Single Family Default Monitoring System; failed to foreclose on properties in accordance with HUD/FHA guidelines; failed to maintain and implement a QC plan in compliance with HUD/FHA requirements; failed to ensure QC reviews were completed for early payment defaults; used falsified information in originating and/or underwriting and obtaining HUD/FHA mortgage insurance; failed to prevent documents used to verify credit and income from passing through the hands of interested third parties; failed to address deficient underwriting and/or document data analysis; engaged in a prohibited branch arrangement by allowing a separate mortgage company to function as a branch office; exceeded HUD/FHA's limitations when calculating the maximum insurable mortgage; approved loans with underwriting ratios that exceeded HUD/FHA standards without significant compensating factors; failed to adequately document a stable two-year employment history or other forms of effective income; failed to meet the minimum credit requirements for FHA insured loans; failed to adequately document the source of funds used to process and close loans; failed to reconcile discrepancies found in appraisal documents and/or provide documentation required for loan eligibility; failed to ensure that loans met the eligibility requirements for HUD/FHA mortgage insurance; failed to ensure 203(k) loan program requirements were met; failed to ensure that documents were not signed in blank; failed to ensure that borrowers were only charged permissible fees; failed to disclose the amount of the Yield Spread Premium on the Good Faith Estimate; failed to prevent non-employees from originating and/or processing HUD/FHA loans; failed to ensure that loans closed in the name of the FHA-approved principal; failed to ensure that the program requirements for the Construction-Permanent Mortgage program were met; failed to uphold its agreement with HUD to only originate direct mortgages through its

direct lending branch; failed to provide HUD with loan documents upon request; and failed to ensure the data integrity of the information entered into the FHA Connection.

24. Vanderbilt Mortgage and Finance, Inc., Maryville, TN [Docket No. 10–1878–MR]

Action: On August 18, 2010, the Board entered into a settlement agreement with Vanderbilt Mortgage and Finance, Inc. (''Vanderbilt'') that required Vanderbilt to pay a civil money penalty of $15,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Vanderbilt submitted false certifications to HUD on its electronic Annual Certifications, and failed to notify HUD that it had entered into a Settlement Agreement and Consent to Entry of a Consent Order with the North Carolina Office of the Commissioner of Banks.

25. WCS Lending, LLC, Boca Raton, FL [Docket No. 10–1964–MR]

Action: On September 2, 2010, the Board entered into a settlement agreement with WCS Lending, LLC (''WCS'') that required WCS to pay a civil money penalty of $3,500 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: WCS posted the HUD seal on a Web site maintained by a loan officer, and failed to register a branch office.

26. Windsor Capital Mortgage Corporation, San Diego, CA

Action: On October 28, 2010, the Board issued a Notice of Administrative Action withdrawing the FHA approval of Windsor Capital Mortgage Corporation (''WCMC'') for one year.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: WCMC failed to timely notify HUD that it entered into a Consent Order with the State of Arizona that contained sanctions and violations against WCMC, and failed to notify HUD of reportable business changes.

II. Lenders That Failed To Meet Requirements for Annual Recertification of HUD/FHA Approval

Action: The Board voted to withdraw FHA approval for each of the lenders listed below.

Cause: The Board took this action because the lenders were not in compliance with HUD's annual recertification requirements.

1. Advanced Funding Associates, Inc., Atlanta, GA.
2. Affiliated Mortgage Company, Tavares, FL.
3. Affinity Lending Group, LLC, Shreveport, LA.
4. Allstate Lending Group, Inc., Monterey Park, CA.
5. Alpine Financial & Mortgage Services Inc., Coral Springs, FL.
6. America Mortgage Center, LLC, Saint Cloud, FL.
7. America's Advantage Mortgage, Orland Park, IL.
8. America's Credit Union FCU, Fort Lewis, WA.
9. American Capital Financial Trading Corporation, Weston, FL.
10. American Frontier Financial Group, Pasadena, CA.
11. American Lending Group, Inc., St. Peters, MO.
12. AMEX Home Mortgage Corporation, Middleton, MA.
13. Best Home Loan, Inc., Jacksonville, FL.
14. Brian Butler Ventures, Inc., Houston, TX.
15. Bridgeline Capital Group, Inc., San Francisco, CA.
16. California Mortgage Advisory Corporation, Santa Ana, CA.
17. Centurion Funding Corporation America, Avon, MA.
18. Certified Home Loans of Florida, Inc., Miami, FL.
19. Citizens Mortgage Corporation, Waco, TX.
20. Clayton Peters & Associates, Baltimore, MD.
21. CMLC Funding, Inc., Menomonee Falls, WI.
22. Colonial Mortgage Corporation, Jericho, NY.
23. Community Development Bank, Ogema, MN.
24. Community Home Loans of America, LLC, Somerset, NJ.
25. Custom Mortgage, LLC, Arlington Heights, IL.
26. D & A Services Inc., Radcliff, KY.
27. Diamond Funding Corporation, Milford, MA.
28. Direct Home Mortgage Co., Warwick, RI.
29. Dreamerica Mortgage, Inc., Geneva, IL.
30. Drimslo Mortgage Corporation, Arlington, TX.
31. DSG Enterprises, LTD, Philadelphia, PA.
32. Elite Service Company Inc., Hixson, TN.
33. Enfinger Enterprise, Columbus, GA.
34. Epix Funding Group, Inc., Brandon, FL.
35. Equity United Mortgage Corporation, Ellicott City, MD.
36. FFA Mortgage Corporation, Tulsa, OK.
37. Financial Dynamics Mortgage Corporation, Cranston, RI.
38. First American Wholesale Lending Corp., Woodland Hills, CA.
39. First Coastal Mortgage, LLC, Huffman, TX.
40. First Community Mortgage Banc, Inc., Chicago, IL.
41. First Community Mortgage, Inc., Hyattsville, MD.
42. First Lenders Financial Group, Inc., Orlando, Florida.
43. First Realty Funding, Inc., La Puente, CA.
44. Flagship Mortgage of Alabama, LLC, Pike Road, AL.
45. Gooden Financial Group, Inc., Jacksonville, FL.
46. Greater Atlantic Bank, Front Royal, VA.
47. Greatland Financial Corporation, Wildomar, CA.
48. Heartland Mortgage, Inc., Walla Walla, WA.
49. Home Consultants, Inc. d/b/a HCI Mortgage, Lake Ariel, PA.
50. Home Quest Financial, Moreno Valley, CA.
51. Homeowners Mortgage Corporation, Lanham, MD.
52. Horizon Mortgage Investment Co., Tacoma, WA.
53. Integrated Mortgage Corporation, San Francisco, CA.
54. J.R. Davidson, Inc., Cornelius, NC.
55. Jigsaw Mortgage Corporation, Rancho Cucamonga, CA.
56. JMO, Inc., Temecula, CA.
57. Karim Enterprises, Inc., St. Charles, MO.
58. Lakes and Hills Mortgage Co., Marble Falls, TX.
59. Landmark Mortgage Corporation, Gretna, LA.
60. Legacy Mortgage Group, LLC, Idaho Falls, ID.
61. Lehi Mortgage Services, Inc., Quincy, MA.
62. LHM Financial Group, Inc., Austin, TX.
63. Liberty Financial Group, Inc. Bellevue, WA.
64. Living Proof Mortgage, Inc., Griffin, GA.
65. Loan Wiz, Inc., Miami, FL.
66. Mack Mortgage & Financial Group, Inc., Maple Grove, MN.
67. Mainstreet Mortgage Services, Inc., Pittsburgh, PA.
68. McKenzie Funding, LLC, Springfield, OR.
69. Merchants Mortgage & Trust Corporation, Greenwood Village, CO.
70. Mesak, Inc., Montebello, CA.
71. Midland Community Bank, Kincaid, IL.

72. MinnWest Bank Ortonville, Ortonville, MN.
73. Money Line, Inc., Tucson, AZ.
74. Mortgage Associates, Inc., Columbia, MD.
75. Mortgage Concepts, LLC, Phoenix, AZ.
76. Mortgage Loan Solutions, Inc., Lyons, IL.
77. Mortgage Plus Corporation, Wilmington, DE.
78. Mortgage Source of Colorado, LLC, Fort Collins, CO.
79. Mortgages for U LLC, Summerville, SC.
80. Mountainside Mortgage Company, Clark, NJ.
81. MSG—The Mortgage Specialist Group, Grapevine, TX.
82. Nationwide Funding Corporation, LLC, Chantilly, VA.
83. Northeast Residential Mortgage, LLC, Saddle River, NJ.
84. Old Homestead Mortgage Company, Moses Lake, WA.
85. ONB Bank & Trust Co., Tulsa, OK.
86. Optima Mortgage Corporation, Tustin, CA.
87. Orbit Mortgage Company, Coral Springs, FL.
88. Origen Financial, LLC, Southfield, MI.
89. Pacific Atlantic Mortgage Corporation, Oviedo, FL.
90. Pappadakis Corporation, Jacksonville, FL.
91. Partners Lending, LLC, Clearfield, UT.
92. Pennywise Mortgage Company, Miami, FL.
93. Pioneer Financial Corporation, Payson, UT.
94. Pioneer Mortgage Corporation, Las Vegas, NV.
95. Platinum Reverse Mortgage Corp., Boca Raton, FL.
96. Plus4 Credit Union, Houston, TX.
97. Premier Bank Minnesota, Bloomington, MN.
98. Premier Mortgage Services, LLC, Woodbridge, NJ.
99. Primrose Mortgage Company Inc., Woodstock, GA.
100. Q P Mortgage Banking Center, Inc., Yonkers, NY.
101. Rapid Mortgage Co., Inc., Edinburg, TX.
102. Reaching Another Dimension Financial Services Inc., Sunrise, FL.
103. Reliance Mortgage Co., Dallas, TX.
104. RH Financial Services, Inc., Portland, OR.
105. RT Funding Group Inc., Albuquerque, NM.
106. Security Home Mortgage, Inc., York, PA.
107. South Lake Mortgage Bankers, Inc., Pasadena, CA.
108. SVI Group Inc., San Jose, CA.
109. Syamni Funding, Inc., Richmond Hill, NY.
110. Talman Mortgage and Financial Group, Chicago, IL.
111. The Link LLC, Durango, CO.
112. Top Mortgage Bankers Corp., San Juan, PR.
113. Travis Mortgage, LLC, Glastonbury, CT.
114. Tri-Starr Mortgage and Financial Services, Inc., Hollywood, FL.
115. Trident Mortgage Company, LLC, Littleton, CO.
116. Trinity United Mortgage, LLC, Baton Rouge, LA.
117. Trustworthy Mortgage Corp., Vienna, VA.
118. U.S. Financial Mortgage Corporation, Rocklin, CA.
119. Unibanc Mortgage Corporation, Aurora, IL.
120. USA Mortgage Bankers Corporation, Miami, FL.
121. Wadot Capital, Inc., Seattle, WA.
122. Westland Funding Group, Inc., Palm City, FL.
123. World Mortgage Financing LLC, Birmingham, AL.

III. Lenders That Failed To Timely Meet Requirements for Annual Recertification of HUD/FHA Approval and Have Cured

Action: The Board voted to give the lenders below an opportunity to settle. The settlements required each lender to pay a $7,500, $3,500, or $1,000 civil money penalty without admitting fault or liability.

Cause: The Board took this action because the lenders failed to timely comply with the HUD's annual recertification requirements; however, they are now in compliance.

1. American Affordable Homes, Inc., Fairfax VA, 10–1683–MRT.
2. American Home Financial Services II, Inc., Lexington, TN, 10–2511–MRT.
3. American Mortgage and Investment Services, Inc., Silver Spring, MD, 10–1239–MRT.
4. American West Credit Corporation, Alta Loma, CA, 08–8054–MRT.
5. Apple Mortgage Network, Inc., Union, NJ, 10–1653–MRT.
6. Approval One Financial Services, Jackson, MI, 10–1192–MRT.
7. Argon Enterprises, Inc., Hawthorne, CA, 10–1697–MRT.
8. Assured Capital Funding Corporation, Shelby Township, MI, 10–1155–MRT.
9. Assured Mortgage Bankers Corporation, Manasquan, NJ, 09–9413–MRT
10. Bank of Jackson Hole, Jackson, WY, 10–1205–MRT.
11. Bank of Turtle Lake, Turtle Lake, ND, 10–1204–MRT.
12. Belpre Savings Bank, Belpre, OH, 10–1145–MRT.
13. Benchmark Mortgage LLC, Montgomery, TX, 10–1276–MRT.
14. Best Results Mortgage Corporation, Huntington Park, CA, 10–1670–MRT.
15. C A N Properties Corporation, San Bernardino, CA, 10–1670–MRT.
16. Cabarrus Bank & Trust Company, Concord, NC, 10–1161–MRT.
17. Citizens Choice Mortgage, Las Vegas, NV, 10–1680–MRT.
18. Citizens National Bank Springfield, Springfield, MO, 10–1206–MRT.
19. Commonwealth United Mortgage Corporation, Mount Laurel, NJ, 10–1637–MRT.
20. Community Mortgage, LLC, Independence, MO, 10–1050–MRT.
21. Courtesy Mortgage Company, San Diego, CA, 100–1039–MRT.
22. Crestline Funding Corporation, Irvine, CA, 10–1638–MRT.
23. Customized Mortgage Solutions, LLC, Old Tappan, NJ, 10–1404–MRT.
24. Dominion Mortgage and Financial Services, Inc., Anderson, SC, 10–1242–MRT.
25. Ecom Mortgage, Inc., San Gabriel, CA, 10–1267–MRT.
26. EMC Mortgage Corporation, Lewisville, TX, 10–1913–MRT.
27. Entrafund Home Mortgage, LLC, Mandeville, LA, 10–1095–MRT.
28. ESB Mortgage Company, Ennis, TX, 10–1022–MRT.
29. Financial Partners Credit Union, Downey, CA, 09–9508–MRT and 09–9509–MRT.
30. First American Bank and Trust Company, Athens, GA, 09–9771–MRT.
31. First Equity Lending, Inc., Madison, WI, 10–1255–MRT.
32. First Financial Bank, N.A., Hamilton, OH, 09–9204–MRT.
33. First Mortgage Services, Inc., Baton Rouge, LA, 10–1911–MRT.
34. First Prestige Mortgage Services, Inc., Montclair, NJ, 10–1905–MRT.
35. First Residential Mortgage, Inc., Pikesville, MD, 10–1732–MRT.
36. Gold Miners Investment, Inc., Los Angeles, CA, 10–1904–MRT.
37. Golden Gate Mortgage, Inc., Columbia, SC, 10–1867–MRT.
38. Goldman Sachs Housing and Health Care Funding Company, New York, NY, 09–9855–MR.
39. Gotham City Mortgage Corp., East Elmhurst, NY, 10–1847–MRT.
40. Green Valley Mortgage, LLC, Fairfax, VA, 10–1063–MRT.
41. Heartland Home Mortgage, LLC, Grand Rapids, MI, 10–1740–MRT.
42. Home Mortgage Corporation, Atlanta, GA, 09–9850–MRT.
43. Hometown Bank of Corbin, Inc., Corbin, KY, 10–1020–MRT.

44. HR Mortgage Corporation, Caguas, PR, 10–1745–MRT.
45. Integrity Mortgage Corporation, Arlington Heights, IL, 10–1186–MRT.
46. InterGlobal Mortgage Lending, LLC, Miami, FL, 10–1344–MRT.
47. Jay's Mortgage Acceptance Corporation, Houston, TX, 10–1914–MRT.
48. Jones National Bank & Trust Co., Seward, NE, 10–1072–MRT.
49. Lakeshore Mortgage Group, Inc., Chesterton, IN, 10–1041–MRT.
50. Magnolia Mortgage, Inc., New Iberia, LA, 09–9848–MRT.
51. Marshall Redder Home Mortgage Corporation, Grandville, MI, 10–1385–MRT and 10–1384–MRT.
52. Massachusetts Mortgage Corporation, Shrewsbury, MA, 09–9905–MRT.
53. McNeil Financial Group, Inc., Lake in the Hills, IL, 10–1169–MRT.
54. Mortgage Capital Group, Inc., Crystal Lake, IL, 09–9789–MRT.
55. Mortgage Dreams, LLC, Charlton, MA, 10–1857–MRT.
56. Mortgage Max Corporation, Las Vegas, NV, 10–1302–MRT.
57. Mortgage Square, Inc., Northbrook, IL, 10–1838–MRT.
58. N.R.F. Funding Corporation, Rockville Centre, NY, 10–1405–MRT. New York, NY, 09–9855–MR.
59. Olmsted National Bank, Rochester, MN, 10–1765–MRT.
60. Oyster Mortgage Co., Inc., Arnold, MD, 10–1837–MRT.
61. Pacific Reverse Mortgage, Inc., San Diego, CA, 10–1920–MRT.
62. Phoenix Funding Corporation, O'Fallon, IL, 10–1335–MRT.
63. Preferred Mortgage Consultants, Inc., Northfield, OH, 10–1770–MRT.
64. Prime Finance LLC, Parsippany, NJ, 10–1834–MRT.
65. Real Mortgage Partners, Inc., Austin, TX, 10–1263–MRT.
66. Reverse Mortgage Advisors, LLC, Tewksbury, MA, 10–1849–MRT.
67. S. P. Financing, Inc., Covina, CA, 10–1901–MRT.
68. SAI Mortgage, Inc., Springfield, VA, 10–1146–MRT.
69. Select One Mortgage, Inc., Hudson, WI, 10–1531–MRT.
70. Slocumb National Bank, Slocumb, AL, 10–1342–MRT.
71. Solution One Mortgage, LLC, South Charleston, WV, 10–1051–MRT.
72. Success Mortgage, LLC, Winchester, VA, 10–1281–MRT.
73. Summit Home Loans, Inc., Loveland, OH, 10–1057–MRT.
74. Superior Financial Services, Inc., Stow, OH, 10–1181–MRT.
75. The Construction Loan Company, Inc., Howell, MI, 10–1702–MRT.
76. The Finance Group, Modesto, CA, 19–18434–MRT.
77. The Mortgage Company, LLC, Milwaukee, WI, 09–9543–MRT.
78. The Mortgage Loan Co., Inc., San Juan, PR, 10–1923–MRT.
79. The New Vision Mortgage, LLC, Clifton, NJ, 10–1264–MRT.
80. The Paramount Funding Company, Miami, FL, 10–1127–MRT.
81. Tidewater Mortgage Services, Inc., Virginia Beach, VA, 10–1100–MRT.
82. Tradition Mortgage, LLC, Edina, MN, 10–1106–MRT.
83. Tri-Emerald Financial Group, Inc., Lake Forest, CA, 09–9467–MR.
84. Tristar Mortgage Corporation, Staten Island, NY, 10–1785–MRT.
85. TruStone Financial Federal Credit Union, Plymouth, MN, 10–1107–MRT.
86. UBS Real Estate Investment, Inc., Stamford, CT, 10–1918–MRT.
87. United Community Mortgage Corporation, Keyport, NJ, 10–1154–MRT.
88. United Funding Mortgage Corp., Alpharetta, GA, 10–1803–MRT.
89. United Mortgage Corporation of America, Port Angeles, WA, 10–1243–MRT.
90. Worldwide Capital Mortgage Corporation, Bay Shore, NY, 10–1332–MRT.
91. Zenith Mortgage Advisors, Inc., Milford, MA, 10–1852–MRT.

Dated: July 21, 2011.

Carol Galante,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2011–19293 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5543–D–03]

Order of Succession for Office of General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the General Counsel for the Department of Housing and Urban Development designates the Order of Succession for the Office of General Counsel. This Order of Succession supersedes the Order of Succession for the General Counsel published on December 1, 2009.

DATES: *Effective Date:* July 21, 2011.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Reynolds, Assistant General Counsel for Administrative Law, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 9262, Washington, DC 20410–0500; telephone number 202–402–3502. (This is not a toll-free number.) This number may be accessed through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The General Counsel for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of General Counsel when, by reason of absence, disability, or vacancy in office, the General Counsel is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d). This publication supersedes the Order of Succession notice of December 1, 2009 (74 FR 62805).

Accordingly, the General Counsel designates the following Order of Succession:

Section A. Order of Succession

Subject to the provisions of the Federal Vacancies Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the General Counsel for the Department of Housing and Urban Development is not available to exercise the powers or perform the duties of the General Counsel, the following officials within the Office of General Counsel are hereby designated to exercise the powers and perform the duties of the Office. No individual who is serving in an office listed below in an acting capacity shall act as the General Counsel pursuant to this Order of Succession.

(1) Principal Deputy General Counsel;
(2) Deputy General Counsel for Enforcement and Fair Housing;
(3) Deputy General Counsel for Operations;
(4) Deputy General Counsel for Housing Programs;
(5) Associate General Counsel for Insured Housing;
(6) Associate General Counsel for Assisted Housing and Community Development;
(7) Associate General Counsel for Legislation and Regulations;
(8) Associate General Counsel for Finance and Administrative Law;
(9) Associate General Counsel for Litigation;
(10) Associate General Counsel for Ethics and Personnel Law;
(11) Associate General Counsel for Program Enforcement;
(12) Associate General Counsel for Fair Housing;
(13) Regional Counsel, Region IV;
(14) Regional Counsel, Region V.

These officials shall perform the functions and duties of the office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes the Order of Succession for the General Counsel published on December 1, 2009 (74 FR 62805).

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 21, 2011.

Helen R. Kanovsky,

General Counsel.

[FR Doc. 2011–19299 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5541–D–02]

Order of Succession for the Office of Healthy Homes and Lead Hazard Control

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Director of the Office of Healthy Homes and Lead Hazard Control for the Department of Housing and Urban Development designates the Order of Succession for the Office of Healthy Homes and Lead Hazard Control. This Order of Succession supersedes any previous Order of Succession published for the Office of Healthy Homes and Lead Hazard Control.

DATES: *Effective Date:* July 15, 2011.

FOR FURTHER INFORMATION CONTACT: Matthew Ammon, Deputy Director, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 7th Street, SW., Room 8236, Washington, DC 20410, telephone number 202–402–4337 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Director of the Office of Healthy Homes and Lead Hazard Control for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of Healthy Homes and Lead Hazard Control when, by reason of absence, disability, or vacancy in office, the Director is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d). This publication supersedes any previous Order of Succession published by the Office of Healthy Homes and Lead Hazard Control.

Accordingly, the Director designates the following Order of Succession.

Section A. Order of Succession

Subject to the provisions of the Federal Vacancies Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Director of the Office of Healthy Homes and Lead Hazard Control for the Department of Housing and Urban Development is not available to exercise the powers or perform the duties of the Director, the following officials within the Office of Healthy Homes and Lead Hazard Control are hereby designated to exercise the powers and perform the duties of the Office:

(1) Deputy Director;

(2) Director, Programs Division;

(3) Director, Grants Services Division;

(4) Director, Policy and Standards Division;

(5) Director, Regional Management and Technical Services Division; and

(6) Director, Lead Programs Enforcement Division.

These officials shall perform the functions and duties of the office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Section B. Authority Superseded

This Order of Succession supersedes any previous Order of Succession published for the Office of Healthy Homes and Lead Hazard Control.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 15, 2011.

Jon L. Gant,

Director.

[FR Doc. 2011–19277 Filed 7–28–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2011–N088; 1265–0000–10137–S3]

Columbia National Wildlife Refuge, Adams and Grant Counties, WA; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for the Columbia National Wildlife Refuge (Refuge) for public review and comment. The Draft CCP/EA describes our proposal and alternatives for managing the Refuge for the next 15 years.

DATES: To ensure consideration, please send your written comments by August 29, 2011.

ADDRESSES: You may download a copy of the Draft CCP/EA from our Web site: *http://www.fws.gov/columbia/.* You may submit comments on the Draft CCP/EA or request a copy of it on CD–ROM by any of the following methods. A limited number of printed copies are also available.

E-mail: mcriver@fws.gov. Include ''Columbia Draft CCP/EA'' in the subject line of the message.

Fax: Attn: Kelly Chase, (509) 546–8303.

U.S. Mail: Kelly Chase, Refuge Manager, Columbia National Wildlife Refuge, 64 Maple Street, Burbank, WA 99323.

FOR FURTHER INFORMATION CONTACT: Dan Haas, (509) 546–8333 (phone); or *daniel_haas@fws.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for the Refuge. The Service began this process by publishing a notice of intent in the **Federal Register** (74 FR 25576) on May 28, 2009.

The Refuge is located in the high desert of central Washington. It encompasses 29,656 acres of grassland, shrub-steppe, lake, and wetland habitats. The Refuge was established in 1944, in conjunction with the Columbia Basin Irrigation Project (CBIP), and has been actively managed since 1955. The Refuge's primary purposes are as a refuge and breeding ground for

migratory birds and other wildlife, and for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Refuge was created as a breeding ground for migratory birds; however, it is primarily an important stopover during migration.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities that are compatible with a refuge's purposes, and available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

The Service began the public scoping phase of the CCP planning process by publishing a notice of intent in the **Federal Register** (74 FR 25576) on May 28, 2009, announcing our intention to complete a CCP/EA for the Refuge, inviting the public to a public open house meeting, and requesting public comments. Simultaneously, we distributed Planning Update 1 to our mailing list, announcing the beginning of the CCP planning process, requesting comments on Refuge management issues, and inviting the public to attend a public open house meeting. The public meeting was held June 16, 2009, in Othello, Washington.

In February 2011 we distributed Planning Update 2. The update included a summary of the comments we received, and our draft management alternatives, goals, and objectives. The public comments we received throughout the planning process were considered during development of the Draft CCP/EA.

Draft CCP Alternatives We Are Considering

During the public scoping process we identified a number of issues in Planning Update 1, and in the comments we received from the public, government agencies, and Tribes. To address these issues, we developed and evaluated three alternatives for managing the Refuge. A full description of each alternative is in the Draft CCP/EA. All of the alternatives will include actions to control invasive species, develop or improve partnerships, continue coordination with the Washington Department of Fish and Wildlife, develop volunteer opportunities, and make restoration of habitats a top priority. A brief summary of each alternative follows.

Alternative 1

Alternative 1 is our no action alternative; under it we would continue current management programs. Refuge lands would continue to be managed using a mix of natural processes and habitat maintenance activities. For example, we allow many wetland areas to follow natural succession; however, we conduct noxious weed control, prescribed fire, and other maintenance actions within them. Several moist soil management areas also require water level manipulation, dike maintenance, extensive soil preparation, plantings, and other treatments. Several specialized habitats, such as rock outcroppings and alkali wetlands, are not actively managed. A cooperative farming program is conducted on the Refuge that provides food sources for migratory birds and other wildlife. Waterfowl habitat is actively managed. Management for State or Federal species of concern, such as the Washington ground squirrel, is limited.

The Refuge's annual Sandhill Crane Festival attracts hundreds of people from throughout the Northwest and the rest of the United States. Other compatible public uses include hunting, fishing, wildlife photography and observation, and environmental education and interpretation; however, facilities to accommodate these activities are limited. The Refuge stocks sport fish; however, it lacks a fishing platform that is compliant with the Americans with Disabilities Act (ADA). The Refuge conducts a hunting lottery for a few waterfowl blinds, and other hunting occurs in compliance with Refuge-specific regulations and law enforcement. A small number of trails are provided for hiking and wildlife viewing. A few interpretive signs are provided, and environmental education programs are limited and sporadic.

Alternative 2

Under Alternative 2, Refuge management actions would be similar to Alternative 1, with a number of improvements. Approximately 175 acres of emergent wetlands in Marsh Unit III would be converted to riparian habitat. The Crab Creek channel would be restored. Specialized habitats (*e.g.,* rock outcroppings) would be managed. Farming would continue using low-impact techniques. Management of State and Federal species of concern would be emphasized.

Visitor use would focus on compatible wildlife observation, photography, and interpretation. The Sandhill Crane Festival would remain a priority. Camping, horseback riding, and bicycling uses may change, or be restricted or eliminated, to enhance various habitats. Additional facilities would be developed, including seasonal photography blinds and an ADA-compliant fishing area and hunting blind. Compatible waterfowl hunting would continue; however, the permanent blinds would be removed (excluding the ADA-compliant blinds), and the lottery would be eliminated. Morgan Lake Road would be closed to overnight travel. Interpretive and educational programs would be limited; however, numerous Refuge brochures would be developed to enhance recreational use of the Refuge.

Alternative 3

Refuge management actions under Alternative 3 would be much the same as Alternative 2, with a greater emphasis on visitor services. The Soda Lake Campground would be converted to day-use facilities, and the area around the Bluebird Campground would be available by permit, as a day-use educational site. To promote hunting and fishing opportunities, ADA-compliant facilities would be developed. Compatible waterfowl and big game hunting opportunities would be expanded by opening new areas, and implementing additional youth hunt days, areas, and seasons. The waterfowl blinds and hunting lottery would be retained. Horseback riding and bicycling would continue. Morgan Lake Road would remain open for 24-hour use. A new hiking and interpretive trail would be developed within the Drumheller Channel National Natural Landmark. Seasonal and permanent wildlife observation blinds would be provided. New interpretive and educational programs would be developed, and new brochures to aid Refuge visitors would

be developed. The Sandhill Crane Festival would remain a priority. Fish stocking would continue in some lakes; however, to support northern leopard frog recovery, we would discontinue fish stocking in lakes that have the highest likelihood of the species recovery success, as determined by an interdisciplinary team of experts.

Public Availability of Documents

We encourage you to review and comment on the proposals we have developed in the Draft CCP/EA. The Draft CCP/EA is available on our Web site or by request from the Refuge (see **ADDRESSES**).

Next Steps

After this comment period ends, we will analyze the comments and address them in the final CCP and decision document.

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.

Dated: May 20, 2011.

Richard Hannan,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 2011–19200 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2011–N144; 81440–1113–0000–F3]

Proposed Safe Harbor Agreement for California Red-Legged Frog, at Swallow Creek Ranch, San Luis Obispo County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of permit application.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received, from Swallow Creek Ranch (Applicant), an application for an enhancement of survival permit for the Federally threatened California red-legged frog (*Rana draytonii*), under the Endangered Species Act of 1973, as amended (Act). This permit application includes a proposed Safe Harbor Agreement (Agreement) between the Applicant and the Service. The Agreement and permit application are available for public comment.

DATES: To ensure we are able to consider your comments, please send them to us by August 29, 2011.

ADDRESSES: The documents are available on our Web site: *http://www.fws.gov/ventura.* A limited number of printed copies are available by request. You may request the documents or submit comments by any of the following methods.

- *E-mail: fw8SHA_swallowcreekranch@fws.gov.* Include ''Swallow Creek Ranch SHA'' in the subject line of the message.
- *U.S. Mail:* Field Supervisor; U.S. Fish and Wildlife Service; Ventura Fish and Wildlife Office; 2493 Portola Road, Suite B; Ventura, CA 93003.
- *Fax:* Attn: Field Supervisor, (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Eric Morrissette, Safe Harbor Coordinator, Ventura Fish and Wildlife Office at the address above or by telephone at (805) 644–1766.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the documents for review by using one of the methods in **ADDRESSES**, or by contacting the individual named in the **FOR FURTHER INFORMATION CONTACT** section. You also may make an appointment to view the documents at the Ventura Fish and Wildlife Office (see **ADDRESSES**) during normal business hours.

Background

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent permits that are issued under section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property. Application requirements and issuance criteria for permits through Safe Harbor Agreements are found in 50 CFR 17.32(c).

We have worked with the Applicant to develop this proposed Agreement for the conservation of the California red-legged frog on the property subject to the Agreement (Enrolled Property), which is owned and managed by the Applicant. The Enrolled Property is Swallow Creek Ranch in San Luis Obispo County, California. Within the 620 acres of land comprising the Enrolled Property, habitat for the California red-legged frog will be restored, enhanced, and managed under a written agreement between the Applicant and Service. We expect that the activities proposed in the Agreement will result in an increase in suitable habitat for this species and provide for its increase in number and its expansion into additional areas that are currently not occupied, thus resulting in a net conservation benefit for the species.

This Agreement provides for the restoration, enhancement, and management of aquatic, riparian, and upland habitat suitable for the California red-legged frog on the Enrolled Property. The proposed duration of the Agreement is 30 years, and the proposed term of the enhancement of survival permit is 30 years. The Agreement fully describes the proposed management activities to be undertaken by the Applicant and the net conservation benefits expected to be gained for the California red-legged frog.

Upon approval of this Agreement and satisfactory completion of all other applicable legal requirements, and consistent with the Service's Safe Harbor Policy published in the **Federal Register** on June 17, 1999 (64 FR 32717), the Service would issue a permit to the Applicant authorizing take of the California red-legged frog incidental to the implementation of the management activities specified in the Agreement; incidental to other lawful uses of the Enrolled Property, including normal, routine land management activities; and incidental to the return to pre-Agreement conditions (baseline).

Management activities included in the Agreement will provide for the restoration, enhancement, and management of native riparian habitats within the Enrolled Property. The objective of such activities is to enhance the population of California red-legged frogs by increasing the quality and quantity of suitable habitat on the Enrolled Property. Take of California red-legged frogs incidental to the aforementioned activities is unlikely; however, it is possible that in the course of such activities or other lawful activities on the Enrolled Property, the Applicant could incidentally take California red-legged frog, thereby

necessitating take authority under the permit.

Baseline conditions have been determined for the Enrolled Property based on the occurrence of California red-legged frog and the extent of suitable habitat as provided in the Agreement. The Applicant must maintain baseline on the Enrolled Property in order to receive coverage regarding incidental take of California red-legged frogs. The Agreement and requested permit would allow the Applicant to return the Enrolled Property to baseline conditions after the end of the term of the Agreement and prior to the expiration of the 30-year permit, if so desired by the Applicant.

Public Review and Comments

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). We explain the basis for this determination in an Environmental Action Statement, which also is available for public review.

Individuals wishing copies of the permit application, copies of our draft Environmental Action Statement, and copies of the Agreement, including a map of the proposed permit area, should contact the Ventura Fish and Wildlife Office (see **ADDRESSES**).

If you wish to comment on the permit application or the Agreement, you may submit your comments to one of the addresses listed in the **ADDRESSES** section of this document. Comments and materials received, including names and addresses of respondents, will be available for public review, by appointment, during normal business hours at the address in the **ADDRESSES** section above and will become part of the public record, under section 10(c) of the Act.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We will evaluate this permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If we determine that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the California red-legged frog incidental to otherwise lawful activities in accordance with the terms of the Agreement. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments we receive during the comment period.

The Service provides this notice under section 10(c) of the Act and under implementing regulations for NEPA (40 CFR 1506.6).

Diane K. Noda,

Field Supervisor, Ventura Fish and Wildlife Office.

[FR Doc. 2011–19204 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX.11.LC00.BM3FQ.00]

Agency Information Collection Activities: Comment Request for the North American Amphibian Monitoring Program (NAAMP)

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0078).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection request (ICR) for the North American Amphibian Monitoring Program (NAAMP). As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this ICR. This ICR is scheduled to expire on July 31, 2011.

DATES: To ensure that we are able to consider your comments on this IC we must receive them on or before August 29, 2011.

ADDRESSES: Please submit written comments on this ICR to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior via e-mail to *oira_docket@omb.eop.gov* or fax at 202–395–5806; and reference Information Collection 1028–0078 in the subject line. Please also submit a copy of your comments to the USGS, Information Collection Officer, U.S. Geological Survey, Mail Stop 807, 12201 Sunrise Valley Drive, Reston, VA 20192. Please reference *Information Collection 1028–0078* in the subject line.

FOR FURTHER INFORMATION CONTACT: Linda Weir at 301–497–5932 or by mail at U.S. Geological Survey, Patuxent Wildlife Research Center, 12100 Beech Forest Road, Laurel, Maryland 20708–4038. To see a copy of the entire ICR submitted to OMB, go to *http://www.reginfo.gov* (Information Collection Review, Currently under Review).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection pertains to volunteers who contribute their time to conduct frog call surveys at assigned survey routes that are part of the North American Amphibian Monitoring Program. Volunteers use an on-line data entry system to submit their data. This information is used by scientists and Federal, state, and local agencies to monitor amphibian populations and detect population trends. Responses are voluntary. Please go to: *http://www.pwrc.usgs.gov/naamp* for more information about the NAAMP.

II. Data

OMB Control Number: 1028–0078.

Title: North American Amphibian Monitoring Program (NAAMP).

Type of Request: Extension of a currently approved collection.

Affected Public: General public; individual households.

Respondent Obligation: Voluntary.

Frequency of Collection: 3 times per year.

Estimated Number of Annual Responses: 1,700.

Annual Burden Hours: 5,100 hours. We estimate an average of 3 hours per response. This includes driving time to and from the survey route locations; listening periods at each sampling station; and data entry.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The estimated non-hour cost for this collection includes: A thermometer (a one-time cost per respondent) and mileage. The thermometer is needed to record air temperature during the survey. The cost of such thermometers is approximately $15. The total operational costs consist of a mileage estimate in accomplishing a survey, calculated by using the mileage reimbursement rate of $0.50 cents per mile (as used in travel reimbursement for Federal employees) times 15 miles (the approximate distance of a calling survey route), for a total of $7.50 per survey.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

III. Request for Comments

On March 14, 2011 we published a **Federal Register** notice (76 FR 13658) announcing that we would submit this ICR to OMB for approval and soliciting comments. The comment period closed on May 13, 2011. We did not receive any comments in response to that notice.

We again invite comments concerning this ICR on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted 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, 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: July 22, 2011.

Anne E. Kinsinger,

Associate Director for Ecosystems.

[FR Doc. 2011–19245 Filed 7–28–11; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–9373; LLAK–965000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Calista Corporation. The decision will approve the conveyance of the surface and subsurface estates in certain lands pursuant to the Alaska Native Claims Settlement Act. The lands are located south west of Sheldon Point, Alaska, and contain 20.55 acres. Notice of the decision will also be published four times in the *Anchorage Daily News.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 29, 2011 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or e-mail, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by e-mail at *ak.blm.conveyance@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Land Transfer Adjudication II.

[FR Doc. 2011–19213 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK927000 L54200000 FR0000 LVDIL0440000; AA–086372]

Notice of Application for a Recordable Disclaimer of Interest for Lands Underlying Aniak River and Lake in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State of Alaska (State) has filed an application with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest from the United States in those lands underlying the Aniak River and Lake in southwestern Alaska. The State asserts that the Aniak River and Lake were navigable and unreserved at the time of statehood; therefore, title to the submerged lands passed to the State at the time of statehood (1959). This river system is partially within the exterior boundaries of the Yukon Delta National Wildlife Refuge, created by the Alaska National Interest Lands Conservation Act, Public Law 96–487 of December 2, 1980, and administered by the U.S. Fish and Wildlife Service.

DATES: All comments to this action should be received on or before October 27, 2011.

ADDRESSES: Comments on the State of Alaska application or the BLM Draft Summary Report must be filed with the Chief, Branch of Survey Planning and Preparation (AK–9270), Division of Cadastral Survey, BLM Alaska State Office, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: Jack Frost, Navigable Waters Specialist, 907–271–5531; 222 West 7th Avenue, #13, Anchorage, Alaska 99513; e-mail *jfrost@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 to contact the above individual; or visit the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html.*

SUPPLEMENTARY INFORMATION: On March 10, 2006, the State filed an application for a Recordable Disclaimer of Interest pursuant to Section 315 of the Federal Land Policy and Management Act of 1976, and the regulations contained in 43 CFR Subpart 1864 for the lands underlying the Aniak River and Lake (AA–086372). A Recordable Disclaimer of Interest, if issued, will confirm that the United States has no valid interest

in the subject lands. This notice is to notify the public of the pending application and the State's grounds for supporting it. The State asserts that this river system is navigable; therefore, under the Equal Footing Doctrine, the Submerged Lands Act of 1953, the Alaska Statehood Act, the Alaska Right of Way Act of 1898, and other title navigability law, ownership of these lands underlying the river automatically passed from the United States to the State at the time of statehood in 1959.

The State's application, AA–086372, is for ''all submerged lands lying within the bed of Aniak River, below the ordinary high water lines of the left and right banks beginning at its source in Section 20 of Township 3 North, Range 57 West, Seward Meridian, Alaska, northerly to its confluence with the Kuskokwim River in Section 7 of Township 17 North, Range 56 West, Seward Meridian, Alaska; and the submerged lands encompassed by the ordinary high water line of Aniak Lake within the following townships and ranges in the Seward Meridian, Township 5 North, Range 56 West; Township 4 North, Range 57 West.'' The State did not identify any known adverse claimant or occupant of the affected lands.

A final decision on the merits of the application will not be made before October 27, 2011. During the 90-day period, interested parties may comment on the State's application, AA–086372, and supporting evidence. Interested parties may also comment during this time on the BLM's Draft Summary Report. The State's application and the BLM's Draft Summary Report may be viewed on the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html,* or in the BLM Public Room located at 222 West 7th Avenue, Anchorage, Alaska 99513.

Comments filed with the BLM Division of Cadastral Survey, including names and street addresses of commenters, will be available for public inspection at the BLM Alaska State Office (see **ADDRESSES** above), during regular business hours from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

If no valid objection is received and all else is proper, a Disclaimer of Interest may be approved stating that the United States does not have a valid interest in these lands.

Authority: 43 CFR 1864.2(a).

Craig Frichtl,

Chief, Branch of Survey Planning and Preparation.

[FR Doc. 2011–19215 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK927000 L54200000 FR0000 LVDIL0440000; AA–086375]

Notice of Application for a Recordable Disclaimer of Interest for Lands Underlying Whitefish Lake and Its Outlet in Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State of Alaska (State) has filed an application with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest from the United States in those lands underlying Whitefish Lake and its outlet in southwestern Alaska. The State asserts that Whitefish Lake and its outlet were navigable and unreserved at the time of statehood; therefore, title to the submerged lands passed to the State at the time of statehood (1959). The lake and its outlet are partially within the exterior boundaries of the Yukon Delta National Wildlife Refuge, created by the Alaska National Interest Lands Conservation Act, Public Law 96–487 of December 2, 1980, and administered by the U.S. Fish and Wildlife Service.

DATES: All comments to this action should be received on or before October 27, 2011.

ADDRESSES: Comments on the State of Alaska application or the BLM Draft Summary Report must be filed with the Chief, Branch of Survey Planning and Preparation (AK–9270), Division of Cadastral Survey, BLM Alaska State Office, 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: For further information contact Ralph Basner, Navigable Waters Specialist, 907–271–3329; 222 West 7th Avenue, #13, Anchorage, Alaska 99513; e-mail *rbasner@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 to contact the above individual; or visit the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html.*

SUPPLEMENTARY INFORMATION: On March 10, 2006, the State filed an application for a Recordable Disclaimer of Interest pursuant to Section 315 of the Federal Lands Policy and Management Act of 1976, and the regulations contained in 43 CFR Subpart 1864 for the lands underlying Whitefish Lake and its Outlet (AA–086375). A Recordable Disclaimer of Interest, if issued, will confirm that the United States has no valid interest in the subject lands. This notice is to notify the public of the pending application and the State's grounds for supporting it. The State asserts that this river system is navigable; therefore, under the Equal Footing Doctrine, the Submerged Lands Act of 1953, the Alaska Statehood Act, the Alaska Right of Way Act of 1898, and other title navigability law, ownership of these lands underlying the river automatically passed from the United States to the State at the time of statehood in 1959.

The State's application, AA–086375, is for the submerged lands encompassed by the ordinary high water line of Whitefish Lake within the following townships and ranges in the Seward Meridian: Township 14 North, Range 60 West; Township 15 North, Ranges 59–60 West. The State also submitted application for the submerged lands within the bed of the Whitefish Lake Outlet between the ordinary high water lines of the left and right banks of the Outlet, beginning at its source, Whitefish Lake, in the SW¼SW¼ of Section 3 in Township 15 North, Range 60 West, Seward Meridian, Alaska; thence west-northwest to its confluence with two other unnamed streams in the NE¼SW¼ of Section 1 in Township 15 North, Range 61 West, Seward Meridian Alaska.

On February 11, 2010, the State amended Section I (Description of Waterways), clarifying its application for a Recordable Disclaimer of Interest for the lands underlying Whitefish Lake and the entirety of its outlet, from Whitefish Lake to its confluence with the Kuskokwim River. In its amended application, the State claims to own the land underlying Whitefish Lake and its outlet (from where it flows out of Whitefish Lake to where it flows into the Kuskokwim River). The State did not identify any known adverse claimant or occupant of the affected lands.

A final decision on the merits of the application will not be made before October 27, 2011. During the 90-day period, interested parties may comment on the State application, AA–086375, and supporting evidence. Interested parties may also comment during this time on the BLM Draft Summary Report. The State application and the BLM Draft Summary Report may be viewed on the BLM Recordable Disclaimer of Interest Web site at *http://www.blm.gov/ak/st/en/prog/rdi.html,* or in the BLM Public Room located at 222 West 7th Avenue, Anchorage, Alaska 99513.

Comments filed with the BLM Division of Cadastral Survey, including names and street addresses of commenters, will be available for public inspection at the BLM Alaska State Office (see **ADDRESSES** above), during regular business hours from 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

If no valid objection is received and all else is proper, a Disclaimer of Interest may be approved stating that the United States does not have a valid interest in these lands.

Authority: 43 CFR 1864.2(a).

Craig Frichtl,

Chief, Branch of Survey Planning and Preparation.

[FR Doc. 2011–19218 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Fish and Wildlife Service

[FWS–R8–ES–2011–N131; 80221–1112–80221–F2]

Desert Renewable Energy Conservation Plan, Habitat Conservation Plan and Possible Land Use Plan Amendment, Southern California: Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior; Bureau of Land Management, Interior.

ACTION: Notice of intent and notice of public meetings; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), intend to prepare an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) of 1969, as amended, for the proposed Desert Renewable Energy Conservation Plan (DRECP). The EIS will be a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR), for which the Service and the Bureau of Land Management (BLM), together with the California Energy Commission (CEC) and the California Department of Fish and Game (CDFG), intend to gather information necessary for preparation. The DRECP will then be prepared to meet the requirements of the Federal Endangered Species Act of 1973, as amended, and the State of California's Endangered Species Act and Natural Communities Conservation Planning Act. The BLM, in compliance with the Federal Land Policy and Management Act, as amended, will consider this NEPA process and the resulting DRECP documents in its analysis toward possible amendment of BLM's California Desert Conservation Area (CDCA) Plan of 1980, as amended.

DATES: Please send written comments on or before September 12, 2011 (see **ADDRESSES**).

Three public scoping meetings will be held for the EIS/EIR, and we will accept written comments at these meetings. These public meetings will be held on the following dates and at the following locations:

1. August 16, 2011, 7–9 p.m., Lake Arrowhead Ballroom, Doubletree Ontario Hotel, 222 N Vineyard Ave. Ontario, CA 91764.
2. August 24, 2011, 2–4 p.m., Hearing Room A, California Energy Commission, 1516 Ninth St. Sacramento, CA 95814.
3. August 24, 2011, 7–9 p.m., Hearing Room A, California Energy Commission, 1516 Ninth St. Sacramento, CA 95814.

For more information, see ''Public Comments'' and ''Reasonable Accommodation'' under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Send your comments or requests for more information by any one of the following methods.

E-mail: FW8DRECP@fws.gov. Include ''Scoping Comments'' in the subject line of the message.

Fax: Attn: Jim Bartel, Field Supervisor, (760) 431–5902.

U.S. Mail: Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Suite 101, Carlsbad, CA 92011.

In-Person Drop-off: You may drop off comments during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Corey, Assistant Field Supervisor, by phone at (760) 431–9440, or by U.S. mail at the above address; or Vicki Campbell, DRECP Program Manager, by phone at (916) 978–4320, or by U.S. mail at the BLM California State Office, 2800 Cottage Way, Suite W–1623, Sacramento, CA 95825.

SUPPLEMENTARY INFORMATION: The Service intends to prepare an EIS under NEPA for the proposed Desert Renewable Energy Conservation Plan (DRECP). The EIS will be a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR), for which the Service and BLM, together with the California Energy Commission (CEC) and the CDFG, intend to gather information necessary for preparation. The DRECP will then be prepared to meet the requirements of the section 10 habitat conservation plan (HCP) process under the Federal Endangered Species Act of 1973, as amended (ESA), and the State of California's Endangered Species Act (CESA) and Natural Communities Conservation Planning Act (NCCPA). The Service and BLM will serve as co-lead agencies in the overall EIS process.

BLM, in compliance with the Federal Land Policy and Management Act, as amended (43 U.S.C. 1701–1782; FLPMA), will consider the NEPA process and DRECP documents in its analysis as it considers possibly amending its California Desert Conservation Area Plan of 1980, as amended (CDCAP). The BLM issued a Notice of Intent to Prepare an EIS for a possible amendment to the CDCAP on November 20, 2009 (74 FR 60291). At this time, BLM announces the joining of its EIS preparation for the possible CDCAP amendment with the Service's EIS for the DRECP. For further information on the potential CDCA Plan amendment, please refer to BLM's November 20, 2009, **Federal Register** notice.

The Service will serve as the administrative lead for all actions related to this **Federal Register** notice for the DRECP HCP EIS component of the EIS/EIR. The CEC will serve as the State lead agency under the California Environmental Quality Act (CEQA) for the EIR component.

The Service is publishing this notice to announce the initiation of a public scoping period, during which we invite other agencies (local, State, and Federal), Tribes, nongovernmental organizations, and the public to submit written comments providing suggestions

and information on the scope of issues and alternatives to be addressed in the EIS. Concurrently with this notice, the CEC has publicly released a CEQA notice of preparation for its EIR via State and local media. Please see *http://www.drecp.org* for more information on the CEQA process.

Background

The proposed DRECP would establish the structure to integrate renewable energy development and biological resource conservation across the Mojave and Colorado Desert regions of southern California. The Department of the Interior (DOI) Secretarial Order No. 3285 A1 (February 22, 2011) establishes the development of renewable energy as a departmental priority and outlines a strategy to increase the development and transmission of renewable energy from appropriate areas on public lands. The order also provides for DOI collaboration with other Federal agencies, States, local communities, and private landowners to facilitate the timely and environmentally responsible development of renewable energy and associated transmission while protecting and enhancing the nation's water, wildlife, and other natural resources.

In November 2008, California's Governor issued an executive order establishing the State of California's goal of meeting 33 percent of the State's electricity generation from renewable resources by 2020. The 33-percent goal became law with the enactment of California State Senate Bill 2 (Joe Simitian), signed into law by the Governor on April 12, 2011 (Pub. Resources Code, 25740, as amended by Stats. 2011, 1st Ex. Sess., ch.1X). The California Governor's Executive Order S–14–08 (November 17, 2008) mandated the development of the DRECP, a major component of California's renewable energy planning efforts. The proposed DRECP, if approved by the CEC and if permits are issued by the Service and CDFG, is expected to further these objectives and accelerate the processing of renewable projects in the Mojave and Colorado Deserts of southern California. The proposed DRECP is intended to advance State and Federal conservation goals in these desert regions while also facilitating the timely permitting of renewable energy projects, and to provide durable and reliable regulatory assurances, as appropriate, under the NCCPA and the ESA for renewable energy development on non-Federal land in the Mojave and Colorado Deserts of southern California. The DRECP would help provide for effective protection and conservation of desert ecosystems while allowing the appropriate development of renewable energy projects.

A Renewable Energy Action Team (REAT), consisting of the CEC, CDFG, BLM, and the Service, will oversee preparation and implementation of the DRECP. The REAT was created through Memoranda of Understanding in 2009 and 2010 among the CEC, CDFG, BLM, the Service, the Secretary of the Interior, and the Governor of California. The REAT's primary mission is to streamline and accelerate the permitting processes for renewable energy projects, while contributing to the conservation of endangered species and natural communities at the ecosystem scale.

The proposed DRECP will serve as a multiple-species HCP for CEC in its application for an incidental take permit under section 10(a)(1)(B) of the Federal ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*). The DRECP will also serve as a Natural Community Conservation Plan (NCCP) under section 2800 *et seq.* of the California Fish and Game Code. Upon approval and adoption of the DRECP, the CEC and potentially other applicants would obtain authorization for the incidental take of certain endangered, threatened, and special-status plant and animal species (''Covered Species'') from the Service on non-Federal land, and from CDFG on both Federal and non-Federal land. If the Federal and State permits are issued, the permittees could extend their permit authorizations to proponents of additional renewable energy and transmission projects under their jurisdiction.

Section 9 of the ESA (16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the ''take'' of a fish or wildlife species listed as endangered or threatened. Under the ESA, the following activities are defined as take: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife species, or attempt to engage in such conduct (16 U.S.C. 1532). Under certain circumstances, the Service may issue permits to authorize ''incidental take'' of listed wildlife species under section 10(a)(1)(B) of the ESA on non-Federal lands. Incidental take is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 50 CFR 17.32, respectively.

Section 10 of the ESA specifies the requirements for the issuance of incidental take permits to non-Federal entities. Any proposed take must be incidental to otherwise lawful activities and cannot appreciably reduce the likelihood of the survival and recovery of the species in the wild. The impacts of such take must also be minimized and mitigated to the maximum extent practicable. To obtain an incidental take permit, an applicant must prepare aHCP describing the impacts that will likely result from the proposed taking, the measures for minimizing and mitigating the impacts of the take, the funding available to implement such measures, alternatives to the taking, and the reason why such alternatives are not being implemented. Thus, the HCP sets forth a uniform and systematic conservation strategy that ensures that impacts to Covered Species and their habitats from activities covered by the HCP (''Covered Activities'') are minimized and mitigated to the maximum extent practicable. If a section 10 permit is issued, the permittee(s) would receive assurances for all plant and animal species covered by the HCP on non-Federal land and included on the permit under the Service's ''No Surprises'' regulation (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Project Area

The proposed DRECP Planning Area generally covers approximately 22,587,000 acres of Federal and non-Federal land in the Mojave and Colorado Desert regions of southern California where renewable energy development potentially may occur, including portions of seven counties (Imperial, Inyo, Kern, Los Angeles, Riverside, San Bernardino, and San Diego). The proposed HCP would cover non-Federal lands in the project area, the proposed NCCPwould cover both Federal (to the extent permitted by law) and non-Federal lands, and the possible CDCA Plan amendment would cover BLM-administered lands. The proposed DRECP and possible CDCAP amendment may focus on specific areas for development, such as the west Mojave, Imperial, and eastern Riverside areas.

Potential Applicants

The DRECP is being prepared through a collaboration of Federal, State, and local agencies as the basis for the CEC (and potentially other entities) to apply for incidental take permits for implementation of the DRECP under (1) Section 10(a)(1)(B) of the ESA and (2) Section 2835 (NCCPA) or Section 2081 (CESA) of the California Fish and Game Code. Other potential applicants that may have jurisdiction over renewable energy and transmission development in the DRECP Planning Area, include the California Public Utilities Commission, special utilities districts,

and local agencies (counties and cities). Upon approval and adoption of the DRECP, and issuance of incidental take authorizations by the Service and CDFG, these other entities, if included as permittees, could extend their permit authorizations to proponents of renewable energy and transmission projects under their jurisdiction.

Other entities that may apply for incidental take permits that have authority over lands within the DRECP Planning Area include CDFG, the State Lands Commission, the California Parks and Recreation Department, and certain campuses of the University of California.

Covered Activities

The proposed ESA incidental take permit may allow take of Covered Species of wildlife resulting from Covered Activities on non-Federal land in the proposed DRECP Planning Area. The purpose of the DRECP is to contribute to the conservation of Covered Species while streamlining endangered species permitting for renewable energy development and transmission projects. To ensure that all relevant renewable energy projects are included and addressed, the Covered Activities are defined broadly as the exploration, pre-project activities (geotechnical borings, site reconnaissance, and, depending on the type of project, installation of temporary meteorological stations or test drilling and trenching), site preparation and construction, related infrastructure requirements, operations and maintenance, monitoring, and future decommissioning of public and private utility-scale renewable energy generation and transmission in the plan area. The activity types covered by the DRECP are expected to include transmission facilities that support renewable energy development, solar (photovoltaic and thermal) projects, wind projects, geothermal projects, and conservation actions. To facilitate timely and environmentally responsible development, the proposed DRECP and possible CDCAP amendment may focus on specific areas for development, such as the west Mojave, Imperial, and east Riverside areas. Potential impacts to Covered Species would be addressed through a conservation program that includes avoidance, minimization, mitigation, conservation, and restoration of habitat for Covered Species by multiple components, such as reserve design and assembly processes, protection and management elements, funding assurances, monitoring, and adaptive management within the DRECPPlanning Area. More information on proposed Covered Activities is available on the Internet at *http://www.drecp.org/covered activities.*

The planning goals of the DRECP include the following:

- Provide for the longer term conservation and management of Covered Species within the DRECP plan area;
- Preserve, restore, and enhance natural communities and ecosystems that support Covered Species within the DRECP area;
- Build on the competitive renewable energy zones identified by the Renewable Energy Transmission Initiative;
- Further identify the most appropriate locations within the DRECP area for the development of utility-scale renewable energy projects, taking into account potential impacts to threatened and endangered species and sensitive natural communities;
- Provide a means to implement Covered Activities in a manner that complies with the ESA, CESA, NCCPA, NEPA, CEQA, and other relevant laws;
- Provide a basis for the issuance of take authorizations allowing the lawful take of Covered Species incidental to Covered Activities;
- Provide for issuance of take authorizations for other Covered Species that are not currently listed but which may be listed in the future;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for Covered Activities within the plan area;
- Provide a framework for a more efficient process by which proposed renewable energy projects with the plan area may obtain regulatory authorizations, and which results in greater conservation values than would a project-by-project, species-by-species review; and
- Identify and incorporate climate change adaptation research, management objectives, and policies into the final plan document.

Covered Species

Covered Species are those species addressed in the proposed DRECP for which conservation actions will be implemented and for which the applicants will seek incidental take authorizations for a period of up to 40 years. Proposed Covered Species are expected to include threatened and endangered species listed under the ESA, species listed under CESA, and unlisted species of Federal and Stateconservation concern.

The following Federally listed threatened and endangered wildlife species are proposed to be covered by the DRECP: The threatened desert tortoise (*Gopherusagassizii*), endangered Peninsular bighorn sheep (*Oviscanadensisnelsoni*), endangered California condor (*Gymnogypscalifornianus*), and endangered arroyo toad (*Anaxyrus [Bufo] californicus*).

Take of Federally listed plant species is not prohibited on non-Federal land under the ESA, and authorization under an ESA section 10 permit is not required. Section 9 of ESA does, however, prohibit the removal or malicious destruction of Federally listed plants from areas under Federal jurisdiction and the removal or destruction of such plants in knowing violation of State law. In addition, section 7(a)(2) of the ESA prohibits Federal agencies from jeopardizing the continued existence of any listed plant or animal species, or destroying or adversely modifying the critical habitat of such species. The following Federally listed plant species are proposed to be included in the DRECP in recognition of the conservation benefits to be provided for them under the plan, and the assurances permit holders would receive if they are included on a permit: The threatened Peirson's milk-vetch (*Astragalusmagdalenaevar.peirsonii*), endangered Amargosaniterwort (*Nitrophilamohavensis*), endangered Lane Mountain milk-vetch (*Astragalusjaegerianus*), and endangered triple-ribbed milk-vetch (*Astragalustricarinatus*).

The following species that are not Federally listed are proposed to be covered by the DRECP: Amargosa River vole (*Microtuscalifornicusscirpensis*), California leaf-nosed bat (*Macrotuscalifornicus*), Mohave ground squirrel (*Spermophilus* [*Xerospermophilus*] *mohavensis*), Mojave River vole (*Microtuscalifornicusmohavensis*), pallid bat (*Antrozouspallidus*), Townsend's big-eared bat (*Corynorhinustownsendii*), American peregrine falcon (*Falco peregrinusanatum*), bald eagle (*Haliaeetusleucocephalus*), burrowing owl (*Athenecunicularia*), golden eagle (*Aquila chrysaetos*), Greater Sandhill crane (*Gruscanadensistabida*), Swainson's hawk (*Buteoswainsoni*), flat-tailed horned lizard (*Phrynosomamcallii*), Mojave fringe-toed lizard (*Uma scoparia*), Barstow woolly sunflower (*Eriophyllummohavense*), desert cymopterus (*Cymopterusdeserticola*), and Mojave monkeyflower (*Mimulusmohavensis*).

The species noted above will be evaluated for inclusion in the DRECP as

proposed Covered Species. However, the list of Covered Species may change as the planning process progresses; species may be added or removed as more is learned about the nature of Covered Activities and their impact on native species within the plan area. More information on Covered Species, including State-listed and unlisted species, is available on the Internet at *http://www.drecp.org/covered species.*

Environmental Impact Statement

Before deciding whether to issue the requested Federal incidental take permit, the Service will prepare a draft EIS as part of the joint EIS/EIR, in order to analyze the environmental impacts associated with potential adoption and implementation of the proposed DRECP as a HCP and NCCP. In the EIS component of the joint EIS/EIR, the Service will consider the following alternatives: (1) The proposed action, which includes the issuance of take authorizations consistent with the proposed DRECP under section 10(a)(1)(B) of the ESA; (2) no action (no Federal ESA permit issuance); and (3) a reasonable range of alternatives that address different scenarios of renewable energy development and species conservation on both Federal and non-Federal land. The EIS/EIR will include a detailed analysis of the impacts of the proposed action and alternatives. The range of alternatives to be considered and analyzed will represent varying levels of conservation and impacts, and may include variations in the scope of Covered Activities; variations in the locations, amount, and type of conservation; variations in permit duration; or a combination of these elements. The BLM may address other considerations in the EIS. In compliance with NEPA, the Service and BLM will be responsible for the scope and preparation of the EIS component of the joint EIS/EIR.

The EIS/EIR will identify and analyze potentially significant direct, indirect, and cumulative impacts of the Service's authorization of incidental take (permit issuance) and the implementation of the proposed DRECP on biological resources, land uses (including BLM, U.S. Department of Defense military operations, and Native American traditional land uses), utilities, air quality, water resources (including surface and groundwater supply and water quality), cultural resources, socioeconomics and environmental justice, outdoor recreation, visual resources, induced growth, climate change and greenhouse gases, and other environmental issues that could occur with implementation of the proposed action and alternatives. The Service and the BLM will use all practicable means, consistent with NEPA and other essential considerations of national policy, to avoid or minimize significant effects of their actions upon the quality of the human environment.

The Service and BLM have invited the National Park Service (NPS), Environmental Protection Agency (EPA), Department of Energy, and the Department of Defense to be cooperating Federal agencies in the preparation of the EIS, because the proposed project may have effects on lands and facilities under the jurisdictions of those agencies. To date, the NPS and EPA have requested and agreed to be cooperating agencies. The CDFG has requested and agreed to be a State cooperating agency. The Service, BLM, NPS, EPA, and CDFG agree that establishing a cooperating agency relationship will create a more streamlined and coordinated approach in developing this EIS.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in the public meeting should contact Ken Corey at (760) 431–9440 as soon as possible. To allow sufficient time to process requests, please call no later than 1 week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Public 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.

Material the Service receives will be available for public inspection, by appointment, during normal business hours (Monday through Friday, 8 a.m. to 4:30 p.m.) at the Service's Carlsbad address (see **ADDRESSES**).

At the close of the public comment period, all written comments received by the Federal co-lead agencies will be posted on the Internet at *http://www.drecp.org/public scoping comments.* Comments received by CEC in response to their notice of preparation under CEQA will also be posted on the Web site.

Authority: 40 CFR 1501.7.

Tom Pogacnik,

Deputy State Director, Natural Resources, California State Office, Bureau of Land Management, Sacramento, California.

Dated: July 22, 2011.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, U.S. Fish and Wildlife Service, Sacramento, California.

[FR Doc. 2011–19175 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[LLWY920000/L51010000.ER0000/LVRWK09K0990/241A; WYW–174598; IDI–35849; NVN–089270]

Notice of Availability of the Draft Environmental Impact Statement for the Gateway West 230/500 kV Transmission Line Project in Idaho, Nevada, and Wyoming and Prospective Draft Land Use Plan Amendments

AGENCY: Bureau of Land Management, Interior; and U.S. Forest Service, Agriculture.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) announce the availability of the Gateway West Transmission Line Project DEIS and prospective draft Land Use Plan (LUP) Amendments. The DEIS analyzes the consequences of granting a right-of-way (ROW) to Idaho Power and Rocky Mountain Power for locating a 1,103-mile-long electric transmission line from the proposed Windstar Substation near the Dave Johnston Power Plant at Glenrock, Wyoming, to the proposed Hemingway Substation near Melba, Idaho. The project is composed of 10 transmission line segments of 230 and 500 kilovolts (kV); each segment would carry up to 3,000 megawatts (MW).

The requested ROW width would generally be 300 feet but could range from 125 to 350 feet, depending on the design variation and structure type. The proposed route generally follows existing transmission lines and West-wide Energy (WWE) corridors designated pursuant to Section 368 of the Energy Policy Act of 2005. Approximately 610 miles (55 percent) of the proposed route is located within or adjacent to designated corridors or existing transmission lines.

Approximately 500 miles (46 percent) of the total proposed length traverses Federally administered land in Idaho and Wyoming. In Idaho, approximately 280 miles of the proposed transmission lines would cross public land administered by seven BLM Field Offices: Bruneau, Burley, Four Rivers, Jarbidge, Owyhee, Pocatello, and Shoshone. In Wyoming, approximately 220 miles of the proposed transmission lines would cross public land administered by four BLM Field Offices: Casper, Kemmerer, Rawlins, and Rock Springs. The proposed route crosses approximately 16 miles in two units of the National Forest System: 7 miles in the Douglas Ranger District of the Medicine Bow-Routt National Forest in Wyoming and 9 miles in the Montpelier Ranger District of the Caribou-Targhee National Forest in Idaho. In addition, the proposed route crosses approximately 5 miles of land administered by the Bureau of Reclamation. Alternative routes are proposed that would cross the Sawtooth National Forest in Idaho, the Fort Hall Indian Reservation, and the acquisition area of the Cokeville Meadows National Wildlife Refuge. One alternative route in Segment #7 extends 9.5 miles into Nevada with approximately 7 miles on public land administered by the Wells Field Office.

This project includes prospective amendments of USFS Land and Resource Management Plans (Forest Plans) and BLM land use plans (Management Framework Plans and Resource Management Plans). By this notice, and the Notice of Intent to prepare an EIS filed in May 2008 (see below), BLM is complying with requirements in 43 Code of Federal Regulations (CFR) 1610.2(c) and the USFS is complying with 36 CFR 219.8 to notify the public of potential amendments to land use plans. The BLM and USFS are integrating the land use planning process with the National Environmental Policy Act (NEPA) analysis process for this project.

Your input is important and will be considered in the environmental analysis process. All comment submissions must include the commenter's name and street address. Comments including the names and addresses of the respondent will be available for public inspection at the locations listed below during their business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays. Before including your address, phone number, e-mail address, or any other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be publicly available at any time. While you may ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

DATES: The DEIS is now available for public review. The BLM and USFS request that comments be structured so that they are meaningful and alert the agencies to a reviewer's position and contentions. In order to be considered in the Final EIS, written comments on the Draft EIS must be received within 90 days after EPA's publication in the **Federal Register** of a Notice of Availability of this Draft EIS. The BLM and USFS will consider timely filed comments and respond to them in the final EIS. All public meetings or other involvement activities for the Gateway West Transmission Line Project will be announced to the public by the BLM at least 15 days in advance through public notices, media news releases, Web site announcements, or mailings.

ADDRESSES: Copies of the DEIS have been sent to affected Federal, State, and local Governments, public libraries in the project area, and to interested parties that previously requested a copy. The DEIS and supporting documents will be available electronically on the following Web site: *http://www.wy.blm.gov/nepa/cfodocs/gateway_west/.* Copies of the DEIS are available for public inspection during normal business hours at the following locations:

- Bureau of Land Management, Wyoming State Office, Public Room, 5353 Yellowstone Road, Cheyenne, Wyoming 82009;
- Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604;
- Bureau of Land Management, Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming 82301;
- Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901;
- Bureau of Land Management, Kemmerer Field Office, 312 Highway 189 North, Kemmerer, Wyoming 83101;
- Bureau of Land Management, Nevada State Office, Public Room, 1340 Financial Boulevard, Reno, Nevada 89502;
- Bureau of Land Management, Wells Field Office, 3900 East Idaho Street, Elko, Nevada 89801;
- Bureau of Land Management, Idaho State Office, Public Room, 1387 South Vinnell Way, Boise, Idaho 83709;
- Bureau of Land Management, Pocatello Field Office, 4350 Cliffs Drive, Pocatello, Idaho 83204;
- Bureau of Land Management, Idaho Falls District Office, 1405 Hollipark Drive Idaho Falls, Idaho 83401;
- Bureau of Land Management, Burley Field Office, 15 East 200 South, Burley, Idaho 83318;
- Bureau of Land Management, Twin Falls District Office, 2536 Kimberly Road, Twin Falls, Idaho 83301;
- Bureau of Land Management, Shoshone Field Office, 400 West F Street, Shoshone, Idaho 83325;
- Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705;
- Bureau of Land Management, Owyhee Field Office, 20 First Avenue West, Marsing, Idaho 83639;
- U.S. Department of Agriculture, Medicine Bow-Routt National Forest, 2468 Jackson Street, Laramie, WY 82070–6535;
- U.S. Department of Agriculture, Medicine Bow-Routt National Forest, Douglas Ranger District, 2250 East Richards Street, Douglas, WY 82633–8922;
- U.S. Department of Agriculture, Caribou-Targhee National Forest, Montpelier Ranger District, 322 North 4th Street, Montpelier, Idaho 83254; and
- U.S. Department of Agriculture, Sawtooth National Forest, Minidoka Ranger District, 3650 Overland Avenue, Burley, Idaho 83318.

A limited number of copies of the document will be available as supplies last. To request a copy, contact Walt George, Project Manager, Wyoming State Office, P.O. Box 20879, Cheyenne, Wyoming 82003.

Written comments may be submitted by the following methods:

- *Web site: http://www.wy.blm.gov/nepa/cfodocs/gateway_west.*
- *E-mail: Gateway_West_WYMail@blm.gov.*
- *Mail:* Bureau of Land Management, Gateway West Project, P.O. Box 20879, Cheyenne, Wyoming 82003.
- *Courier or Hand Deliver:* Bureau of Land Management, Gateway West Project, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Walt George, Project Manager, c/o Bureau of Land Management, Wyoming State Office, P.O. Box 20879, Cheyenne, Wyoming 82003 or by telephone at (307) 775–6116. Any persons wishing to be added to a mailing list of interested parties may write or call the Project Manager, at this address or phone number.

SUPPLEMENTARY INFORMATION: In May 2007, Idaho Power and Rocky Mountain Power (the Proponents) submitted a ROW application to the BLM requesting

authorization to construct, operate, maintain, and decommission electric transmission lines on public lands. The application was revised in October 2007, August 2008, May 2009, and January 2010 to reflect changes to the proposed action. The Proponents' objective for the project is to improve the reliability and efficiency of both utilities' systems and address congestion problems with the western electrical grid. The project is needed to meet projected load growth in the Proponents' Service Areas. The project would also tap the developing renewable energy market, especially wind energy, in Idaho and Wyoming and will aid in delivering that energy throughout the region. The BLM and USFS's purpose and need for the EIS is so that the agencies may respond to the Proponents' application.

On May 16, 2008, the BLM published in the **Federal Register** (FR Vol. 73, No. 96, pages 28425–28426) its Notice of Intent to prepare an EIS pursuant to NEPA, as required by Federal regulations promulgated for the Federal Land Policy and Management Act (FLPMA) found at 43 CFR Part 2800. The BLM is the lead Federal agency for the NEPA analysis process and preparation of the EIS. Cooperating agencies include: the USFS, National Park Service, U.S. Fish and Wildlife Service, Bureau of Indian Affairs, and U.S. Army Corps of Engineers; the States of Idaho and Wyoming; the Idaho Army National Guard; Cassia, Power, and Twin Falls Counties, Idaho; Elko County, Nevada; Lincoln, Sweetwater, and Carbon Counties, Wyoming; the Medicine Bow and Saratoga-Encampment-Rawlins Conservation Districts in Wyoming; and the City of Kuna, Idaho.

To allow the public an opportunity to review the proposal and project information, the BLM held public meetings in June 2008 in: Twin Falls, Murphy, Pocatello, Boise, and Montpelier, Idaho; and Casper, Rawlins, Rock Springs, and Kemmerer, Wyoming. Issues and potential impacts to specific resources were identified during scoping and the course of the NEPA process.

The following project issues were identified in the scoping process:

- Siting on private lands versus public lands,
- Land use conflicts and consistency with land use plans,
- Electric grid reliability and separation distances of transmission lines,
- Effects on wildlife habitat, plants, and animals including threatened, endangered, and sensitive species (especially sage grouse),
- Effects to visual resources and existing view sheds,
- Effects to National Historic Trails and their view sheds,
- Effects to Native American traditional cultural properties and respected places,
- Effects to paleontological resources in southwest Wyoming,
- Avoiding sensitive areas such as National Monuments and Wildlife Refuges, military operating areas, National Conservation Areas, Areas of Critical Environmental Concern, and State Parks,
- Effects to soils and water from surface disturbing activities,
- Effect of the project on local and regional socioeconomic conditions, and
- Management of invasive plant species and ensuring effective reclamation.

In response to scoping comments, Idaho Power and Rocky Mountain Power made route changes in Segments 1, 2, 4, 5, 7, 8, and 9 of their original proposal. The proposed action analyzed in the DEIS reflects these revisions to the route. In addition to the proposed action, the DEIS considers the No Action alternative, a structure variation, a phased construction alternative, and 41 route segment alternatives in detail. Other system alternatives and route variations were considered but eliminated from detailed study. Department of the Interior regulations (43 CFR 46.425) give agencies flexibility when identifying preferred alternatives in the DEIS, stating that: ''* * * the draft environmental impact statement should identify the bureau's preferred alternatives or alternatives [and] the final environmental impact statement must identify the bureau's preferred alternative.'' Because substantial differences exist, in some project segments, among cooperating agencies on the preferred route alternative, and the full range of public input on route alternatives will not be available to the BLM until after the DEIS public comment period, the BLM is deferring identification of its preferred route alternative until the Final EIS.

The DEIS analyzes the potential environmental consequences of granting a ROW to Idaho Power and Rocky Mountain Power to construct an approximately 1,100-mile transmission line from Glenrock, Wyoming, to its terminus at facilities near Melba, Idaho. The Proposed Route consists of 10 segments:

Segment 1 consists of three transmission lines designated 1E, 1W(a), and 1W(c)—between the planned Windstar Substation near the Dave Johnston Power Plant at Glenrock, Wyoming, and the planned Aeolus Substation near Hanna, Wyoming. Segment 1E would include construction and operation of a 100 mile-long, single-circuit 230-kV transmission line across lands without existing major linear ROWs or designated corridors. Three alternative routes in Segment 1E were considered in detail, including one that parallels (but is outside of) an existing utility corridor for most of its length. Segment 1W is composed of two transmission lines: A new single-circuit 230-kV transmission line (1W(a)) that parallels an existing transmission line and reconstruction of the existing 230-kV transmission line (1W(c)). These two lines are approximately 75 miles long and are generally within a WWE corridor. One alternative route for Segment 1W is considered in detail.

Segment 2 consists of a 97-mile, double-circuit 500-kV transmission line between the Aeolus Substation and the Creston Substation near Wamsutter, Wyoming, which generally is within a WWE corridor. Three alternative route segments were considered in detail, including one that parallels but is outside of an existing utility corridor for approximately 28 miles.

Segment 3 consists of a 57-mile, double-circuit 230/500-kV line from the proposed Creston Substation south of Wamsutter, Wyoming, to the proposed Anticline Substation near the Jim Bridger Power Plant, located approximately 30 miles east of Rock Springs, Wyoming. Approximately 17.8 miles are within or parallel to a WWE corridor. No other alternative routes were considered in detail for this segment.

Segment 4 consists of a 203-mile, double-circuit 500-kV line between the Anticline Substation, near the Jim Bridger Power Plant, and the Populus Substation near Interstate 15 in southern Bannock County, Idaho. This segment generally is within an existing transmission line corridor. Six alternative route segments were considered in detail.

Segment 5 consists of a 55-mile, single-circuit 500-kV line between the planned Populus Substation and the existing Borah Substation in Power County, Idaho. Five alternative route segments were considered in detail.

Segment 6 consists of increasing the voltage capacity of an existing line from the Borah Substation to the Midpoint Substation located approximately 9 miles south of Shoshone, Idaho. The voltage would be increased to 500 kV on the existing Midpoint to Kinport 345-kV transmission line. Five new towers

would be required. No new route alternatives were considered in detail because this is a rebuild of an existing line.

Segment 7 consists of a 118-mile, single-circuit 500-kV transmission line between the Populus Substation and the proposed Cedar Hill Substation near the county line between Cassia and Twin Falls Counties in Idaho. Ten alternative route segments were considered in detail, including two that cross the Sawtooth National Forest, one of which crosses into Nevada for approximately 9 miles.

Segment 8 consists of a 131-mile, single-circuit 500-kV transmission line between the Midpoint Substation and the Hemingway Substation, located approximately 30 miles southwest of Boise, Idaho. Five alternative route segments were considered in detail.

Segment 9 consists of a 162-mile, single-circuit 500-kV transmission line between the proposed Cedar Hill Substation and the planned Hemingway Substation near Murphy, Idaho. Eight alternative route segments were considered in detail.

Segment 10 consists of a 34-mile, single-circuit 500-kV transmission line between the Midpoint Substation, located approximately 9 miles south of Shoshone, and Cedar Hill Substation near the county line between Cassia and Twin Falls Counties in Idaho. No other alternative routes were considered in detail for this segment.

The BLM, USFS, Proponents, and Cooperating Agencies worked together to develop routes that would conform to existing Federal land use plans. However, this objective was not reached for many of the routes analyzed in the DEIS. Unlike the regulations at 43 CFR 46.425 that allow the BLM to defer identification of an agency preferred route alternative until the Final EIS, the BLM planning regulations at 43 CFR 1610.4–7 require identification of the BLM's Preferred Plan Amendment in the DEIS. The BLM has identified draft plan amendments below for each situation of nonconformance that would bring the Proposed or Alternative Route into conformance with the respective land use plan. Each of these plan amendments is the BLM's preferred plan amendment. The specific land use plan amendments actually needed will be determined by the final agency preferred route selected. Therefore, some of the following prospective plan amendments may not need to be implemented. The BLM will identify those plan amendments it intends to implement (as Proposed Plan Amendments), along with its preferred route, in the Final EIS.

The following land-use plan amendments may be needed to bring the Gateway West Transmission Line Project into conformance with the applicable Resource Management Plans (RMPs) and Management Framework Plans (MFPs) for BLM-managed lands and Land and Resource Management Plans (Forest Plans) for National Forest System lands crossed by the project, depending on project approval and on the final route selected. All prospective plan amendments will comply with applicable Federal laws and regulations, be analyzed in the Gateway West EIS, and apply only to Federal lands and mineral estate administered by the BLM or USFS.

Casper RMP: An amendment may be needed for visual resource management.

Rawlins RMP: An amendment may be needed for visual resource management.

Green River RMP: Amendments may be needed for visual resource management, sage-grouse, and raptor management.

Kemmerer RMP: Amendments may be needed for management of visual resources, historic trails, heritage resources, sage-grouse, the Rock Creek/Tunp Special Designation Area, and recreation.

Malad MFP: Amendments may be needed for management of visual resources and to designate a new utility corridor.

Bennett Hills/Timmerman Hills MFP: An amendment may be needed for visual resource management.

Cassia RMP: Amendments may be needed for management of visual resources, historic trails, and to designate a new utility corridor.

Twin Falls MFP: An amendment may be needed for visual resource management and to allow a linear facility outside of existing corridors.

Jarbidge RMP: Amendments may be needed for management of visual resources, paleontological sites, historic trails, to adjust management objectives in an ACEC, and to designate a new utility corridor.

Kuna MFP: An amendment may be needed for a historic site and to designate a new utility corridor.

Morley Nelson Snake River Birds of Prey National Conservation Area RMP: Amendments may be needed for management of visual resources, non-motorized area management, to adjust management objectives in a Special Recreation Management Area, sensitive plant habitat, and to designate a new utility corridor.

Bruneau MFP: An amendment may be needed for visual resource management.

Wells RMP: An amendment may be needed to allow a linear facility outside of identified planning corridors.

Medicine Bow Forest Plan: An amendment may be needed for management of visual resources, goshawk and amphibian habitat, recreation, and to change the management prescription for any area crossed by new transmission lines not within the WWE corridor.

Caribou Forest Plan: An amendment may be needed to designate a new utility corridor.

Sawtooth Forest Plan: An amendment may be needed for management of visual resources and recreation.

The DEIS analyzes the environmental consequences of the No Action alternative, the proposed action, segment and design alternatives, and land use plan amendments. For this EIS, the No Action alternative means that the Idaho Power and Rocky Mountain Power ROW application for the Gateway West project would be denied by the BLM. The BLM will utilize and coordinate the NEPA commenting process to satisfy the public involvement process for Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), as provided for in 36 CFR 800.2(d)(3). Ongoing Native American Tribal consultations will continue to be conducted in accordance with policy, and Tribal concerns, including impacts on Indian trust assets, will be given due consideration. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project, are invited to participate.

Brent L. Larson,

Forest Supervisor, Caribou-Targhee National Forest.

Donald A. Simpson,

Wyoming State Director.

[FR Doc. 2011–19094 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYP00000–L51100000–GA0000–LVEMK09CK380, WYW172684]

Notice of Availability of the Buckskin Mine Hay Creek II Coal Lease-by-Application Final Environmental Impact Statement, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of

1969 (NEPA), and the Federal Land Policy and Management Act of 1976 (FLPMA), the Bureau of Land Management (BLM) announces the availability of the Buckskin Mine Hay Creek II Coal Lease-by-Application (LBA) Final Environmental Impact Statement (EIS). The tract is being considered for sale as a result of a coal lease application received from the operator of the adjacent Buckskin Mine in Campbell County, Wyoming.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Buckskin Mine Hay Creek II Final EIS within 30 days following the date the Environmental Protection Agency (EPA) publishes its Notice of Availability in the **Federal Register.**

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

- *E-mail: Hay_Creek_II_WYMail@blm.gov.* Please include ''Hay Creek II Coal FEIS—Teresa Johnson'' in the subject line.
- *FAX:* 307–261–7587, Attn: Teresa Johnson.
- *Mail:* Wyoming High Plains District Office, Bureau of Land Management, Attn: Teresa Johnson, 2987 Prospector Drive, Casper, Wyoming 82604.
- Written comments may also be hand-delivered to the BLM Wyoming High Plains District Office in Casper.

Copies of the Final EIS are available at the following BLM office locations: BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and the BLM Wyoming High Plains District Office, 2987 Prospector Drive, Casper, Wyoming 82604. The Final EIS is available electronically at the following Web site: *http://www.blm.gov/wy/st/en/info/NEPA/documents/hpd/HayCreekII.html.*

FOR FURTHER INFORMATION CONTACT: Teresa Johnson or Mike Karbs at the BLM Wyoming High Plains District Office address above or telephone 307–261–7600.

SUPPLEMENTARY INFORMATION: The Final EIS analyzes and discloses to the public direct, indirect, and cumulative environmental impacts of issuing the Hay Creek II LBA, case number WYW172684, in the Wyoming portion of the decertified Powder River Federal Coal Production Region. The BLM is considering issuing a coal lease as a result of a March 24, 2006, application submitted by Kiewit Mining Properties, Inc., to lease Federal coal near the Buckskin Mine approximately 12 miles north of Gillette, Wyoming.

Kiewit Mining Properties, Inc. proposes to lease the tract as a maintenance tract to extend the life of the existing mining operations at the Buckskin Mine under the provisions of the Leasing on Application regulations at 43 CFR subpart 3425. BLM personnel reviewed the application and delineated a proposed tract that would best serve the public interest. The BLM's preferred tract delineation contains approximately 1,567 acres and approximately 277 million tons of in-place coal. The lands are in Campbell County, Wyoming and are generally located within sections 7 through 9 and 17 through 19 in T. 52 N., R. 72 W., 6th PM, Wyoming. If a decision is made to lease the coal, the lands will be specifically described in the Notice of Coal Lease Sale.

The Office of Surface Mining Reclamation and Enforcement (OSM) and the Wyoming Department of Environmental Quality (WDEQ) are cooperating agencies in the preparation of this Final EIS.

If the tract is leased as a maintenance tract, the new lease will be incorporated into the existing mining and reclamation plan for the adjacent mine. The Secretary of the Interior (Secretary) must approve the revision to the Mineral Leasing Act (MLA) mining plan before the Federal coal can be mined. If the tract is leased, OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the Secretary. The WDEQ has entered into a cooperative agreement with the Secretary to regulate surface coal mining operations on Federal and non-Federal lands within Wyoming.

On December 21, 2007, the BLM published a Notice of Intent (NOI) to prepare an EIS for the Hay Creek II coal lease application in the **Federal Register** (72 FR 72750). A notice announcing the availability of the Draft EIS was published in the **Federal Register** by the EPA on March 12, 2010, (75 FR 11882). A 60-day comment period on the Draft EIS commenced with publication of the EPA's notice of availability and ended on May 10, 2010. The BLM published a Notice of Availability and Notice of Public Hearing in the **Federal Register** on March 12, 2010, (75 FR 11906). The BLM's **Federal Register** notice announced the date and time of a public hearing, which was held on April 22, 2010, in Gillette, Wyoming. The purpose of the hearing was to solicit comments on the Draft EIS, fair market value, and the maximum economic recovery of the Federal coal. No statements were given as testimony at the public hearing. During the Draft EIS comment period, the BLM received eight comment letters, which are included in an appendix to the Final EIS with BLM's responses to the comments.

The Final EIS analyzes leasing the Hay Creek II coal tract as-applied-for as the Proposed Action. Under the Proposed Action, a competitive sale would be held and a lease issued for Federal coal in the tract as applied for by Kiewit Mining Properties, Inc. As part of the coal leasing process, the BLM identified an alternative tract configuration, which is the preferred alternative, to assure the maximum economic recovery of the coal, to avoid isolating or bypassing marketable coal, and to prompt competitive interest in the unleased Federal coal for this area. The alternate tract configuration that BLM has identified is described and analyzed as a separate alternative in the Final EIS. Under this alternative, a competitive sale would be held and a lease would be issued for Federal coal lands included in a tract modified by the BLM. The Final EIS also analyzes the alternative of rejecting the application to lease Federal coal as the No Action Alternative. The Proposed Action and alternatives being considered in the Final EIS are in conformance with the *Resource Management Plan for Public Lands Administered by the Bureau of Land Management Buffalo Field Office (2001).* A Record of Decision (ROD) will be prepared after the close of the 30-day review period for the Final EIS. Comments received on the Final EIS will be considered during preparation of the ROD.

Copies of the Final EIS have been mailed to all parties on the mailing list for this project. Requests for copies can be made in writing, by facsimile, or electronically to the addresses listed at the beginning of this notice. The BLM asks that those submitting comments on the Final EIS make them as specific as possible with reference to page numbers and chapters of the document. Comments that contain only opinions or preferences will not receive a formal response; however, they will be considered as part of the BLM decision-making process. Please note that comments and information submitted including names, street addresses, and e-mail addresses of respondents will be available for public review and disclosure at the above address during regular business hours (7:45 a.m. through 4:30 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, may

be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Donald A. Simpson,

State Director.

[FR Doc. 2011–19093 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF02000 L71220000.EA0000 LVTFC09C6050]

Notice of Availability of the Final Environmental Impact Statement for the Proposed Over the River Art Project, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Proposed *Over the River* Art Project (*Over the River* Final EIS) and by this notice is announcing its availability and the initiation of the 30-day availability period.

DATES: The publication of the BLM's Notice of Availability of this Final EIS in the **Federal Register** initiates a 30-day public availability period. The Final EIS will be available to the public until August 29, 2011. While the availability period is not a formal public comment period, BLM may receive comments on the Final EIS which may be addressed in the Record of Decision.

ADDRESSES: Copies of the Over the River Final EIS are available for public inspection at the BLM Royal Gorge Field Office. See the **SUPPLEMENTARY INFORMATION** section for additional public inspection addresses. Interested persons may also review the Final EIS at the following Web site: *http://www.blm.gov/co/st/en/fo/rgfo/planning/otr.html.*

Any written comments related to the *Over the River* Final EIS may be submitted by any of the following methods:

- *Web site comment form: http://www.blm.gov/co/st/en/fo/rgfo/planning/otr.html.*
- *E-mail: co_otr_comments@blm.gov.*
- *Fax:* (719) 269–8599.
- *Mail:* BLM Royal Gorge Field Office, Over the River Comments, 3028 E. Main St., Cañon City, Colorado 81212.

Please write ''OTR Comments'' in the subject line of comments that are e-mailed or faxed.

FOR FURTHER INFORMATION CONTACT: Mr. Vincent Hooper, *Over the River* Project Manager, at the Royal Gorge Field Office (see **ADDRESSES** section above); telephone (719) 269–8555; e-mail *co_otr_comments@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The OTR Corporation, formed by the artists Christo and Jeanne-Claude, proposes to install a work of art, known as *Over the River,* on Federal, state, and private lands adjacent to the Arkansas River between the cities of Salida and Cañon City in Colorado. Following an estimated 2-year construction period, the exhibit is proposed for a 2-week display and viewing period in early August 2014. The proposed art exhibit involves the installation of approximately 900 porous, semi-transparent fabric panels, which would be suspended 8 to 25 feet above the water for a total distance of approximately 5.9 miles at eight locations. The panels would be supported by approximately 1,270 steel cables and a series of steel anchor transition frames. More than 9,000 steel anchors would be drilled along and into the banks of the Arkansas River to support the panels. At the end of the 2-week exhibition period, the system of cables and anchors and other above-ground materials would be removed over an estimated 3-month period. The artists would be responsible for restoring the river corridor according to the standards defined by permitting and approval authorities. More than 300,000 people are expected to visit the Arkansas River canyon during the 2-week exhibition period. The proposed art exhibit is a no-fee visitor event. As proposed, the project would be located primarily on Federal lands administered by the BLM Royal Gorge Field Office, but would also be located on lands owned or managed by the Colorado State Land Board (SLB), Union Pacific Railroad, and private landowners; lands leased by the Colorado Division of Wildlife (CDOW); and lands owned or cooperatively managed by Colorado State Parks in the Arkansas Headwaters Recreation Area. The Colorado Department of Transportation (CDOT) and Colorado State Patrol have jurisdiction for activities along U.S. Highway 50. The majority of the project area is within Fremont County; however, a small portion at the western end of the project is within Chaffee County. Approximately 80 percent of the area in the proposed project would be located in the Arkansas Canyonlands Area of Critical Environmental Concern (ACEC), a BLM-designated area that recognizes the need for recreation use as well as protection for the river corridor's scenic values.

The Final EIS identifies 7 alternatives (including a no action alternative) that vary by panel length, transportation, visitor management, and timing considerations. The action alternatives were also developed to consider and compare configurations of public lands that could be made available for artistic panel placement as well as construction and logistics.

The BLM Royal Gorge Field Office is the lead Federal agency responsible for preparing the EIS and complying with the requirements of NEPA and other applicable laws and regulations. Multiple cooperating agencies and permitting authorities have participated and provided input in the development of the *Over the River* Final EIS, including CDOT, Chaffee and Fremont Counties, and the Colorado Department of Natural Resources (DNR), which includes CDOW, Colorado State Parks, and SLB.

Over the River was informally proposed by the artists Christo and Jeanne-Claude in 1996. Based on OTR Corporation's verbal proposal, the BLM began an Environmental Assessment (EA) and initiated an informal scoping period through 8 public meetings held in communities within the proposed project area from April 1997 to October 2000. OTR Corp. re-approached the BLM about the proposed project in August 2005. Additional EA-level scoping occurred in January and February 2006. On May 24, 2006, the BLM also hosted interagency meetings with CDOT, DNR, Fremont County, Chaffee County, and Colorado State Patrol to discuss and understand the public comments and questions. The scoping comments led to a Notice of Intent which published in the **Federal Register** on June 19, 2006 (71 FR 35289), announcing the intent to prepare an EIS. The decision to prepare an EIS was based on several factors, including a specific request from the applicants, the

increasing complexity of the project, the level of controversy related to the project, and the level of public involvement during the scoping process.

On July 16, 2010, the Notice of Availability for the Draft EIS was published in the **Federal Register** (75 FR 41517) and a 45-day Draft EIS public comment period began. During this time, the BLM hosted 4 public meetings in Cañon City, Cotopaxi, Salida, and Denver, Colorado. Based on public comments received, the BLM extended the comment period by 15 days, ending on September 14, 2010. The responses to comments are presented in the *Over the River* Final EIS.

Public comments focused on concerns with emergency response and safety, cleanup and restoration, impacts to the special values of the Arkansas Canyonlands ACEC, wildlife, threatened and endangered species, recreation, transportation, and socioeconomics. These comments have been addressed within the range of alternatives in the Final EIS where applicable.

Additional Final EIS Inspection Addresses: Additional copies of the *Over the River* Final EIS are available at the BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado; Cañon City Public Library, 516 Macon Ave., Cañon City, Colorado; Salida Regional Library, 405 E. Street, Salida, Colorado; Arkansas Headwaters Recreation Area office, 307 West Sackett Ave., Salida, Colorado; Denver Public Library, 10 W. Fourteenth Ave. Parkway, Denver, Colorado; and the Cotopaxi Store, 20204 U.S. Highway 50, Cotopaxi, Colorado.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment on the Final EIS, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6 and 1506.10.

Helen M. Hankins,

Colorado State Director.

[FR Doc. 2011–19092 Filed 7–28–11; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In Re Certain Wireless Devices with 3G Capabilities and Components Thereof,* DN 2835; the Commission is soliciting comments on any public interest issues raised by the complaint.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint filed on behalf of InterDigital Communications LLC, InterDigital Technology Corporation, and IPR Licensing Inc. on July 26, 2011. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless devices with 3g capabilities and components thereof. The complaint names as respondents Huawei Technologies Co., Ltd. of China; FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA) of TX; Nokia Corporation of Finland; Nokia Inc. of NY; ZTE Corporation of China; and ZTE (USA) Inc. of TX.

The complainant, proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five pages in length, on any public interest issues raised by the complaint. Comments should address whether issuance of an exclusion order and/or a cease and desist order in this investigation would negatively affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the potential orders;

(iii) Indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the orders; and

(iv) Indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order and a cease and desist order within a commercially reasonable time.

Written submissions must be filed no later than by close of business, five business days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Submissions should refer to the docket number (''Docket No. 2835'') in a prominent place on the cover page and/or the first page. The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the

Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50(a)(4) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50(a)(4)).

By order of the Commission.

Issued: July 26, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–19225 Filed 7–28–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–712]

Certain Digital Set-Top Boxes and Components Thereof; Notice of Commission Determination Not To Review a Final Initial Determination; Affirming-in-Part ALJ Order No. 33 Granting Summary Determination That Complainant Satisfied the Economic Prong of the Domestic Industry Requirement Under 19 U.S.C. 1337(a)(3); Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''the Commission'') has determined not to review the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on May 20, 2011, in the above-captioned investigation; the Commission has also determined to affirm-in-part ALJ Order No. 33 granting summary determination that complainant satisfies the economic prong of the domestic industry requirement.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3116. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on April 21, 2010, based on a complaint filed by Verizon Communications Inc. and Verizon Services Corp. (collectively, ''Verizon''), alleging a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain digital set-top boxes and components thereof, that infringe one or more of claim 14 of U.S. Patent No. 5,635,979; claim 38 of U.S. Patent No. 5,666,293; claim 13 of U.S. Patent No. 6,381,748 (''the '748 patent''); claim 14 of U.S. Patent No. 6,367,078; and claim 5 of U.S. Patent No. 7,561,214. 75 FR 20861 (2010). Complainant named Cablevision Systems Corp. of Bethpage, New York (''Cablevision'') as the only respondent. *Id.*

On September 7, 2010, Verizon moved for summary determination that its activities in the United States concerning its FiOS TV services satisfy the economic prong of the domestic industry requirement under 19 U.S.C. 1337(a)(3). On September 24, 2010, Cablevision filed an opposition to Verizon's motion. Also on September 24, 2010, the Commission investigative attorney (''the IA'') filed a response in support of Verizon's motion. On January 11, 2010, the ALJ issued an ID (Order No. 33) granting Verizon's motion. On January 20, 2011, respondent Cablevision filed a petition for review of the Summary ID. On January 27, 2011, Verizon and the IA each filed a response to the petition for review. On February 11, 2011, the Commission determined to review the Summary ID and requested written submissions from the parties on the issues under review. All of the parties timely submitted their respective initial and reply submissions.

The evidentiary hearing on violation of Section 337 was held from January 24, 2011 through February 1, 2011. On May 20, 2011, the ALJ issued his final ID finding a violation of section 337 as to the '748 patent only. The ID included the ALJ's recommended determination on remedy and bonding. All the parties to the investigation filed timely petitions for review of various portions of the final ID, as well as timely responses to the petitions. On July 1, 2011, Cablevision filed an unopposed motion for leave to file a supplemental submission regarding a district court proceeding. *ActiveVideo Networks, Inc.* v. *Verizon Commc'ns, Inc.*, Civil Action No. 2:10cv248. The motion is hereby granted.

Having examined the record in this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined not to review the final ID. The Commission has also determined to affirm-in-part the ALJ's Order No. 33, granting Verizon's motion for summary determination that it has satisfied the economic prong of the domestic industry requirement under 19 U.S.C. 1337(a)(3)(C). In particular, the Commission affirms that Verizon has satisfied the economic prong of the domestic industry requirement based on its investment in the software development and testing, installation, and support associated with the set-top boxes that were alleged to practice the asserted claims of the patents-in-suit because Verizon's investments in those activities are ''substantial'' within the meaning of Section 337(a)(3)(C). The Commission takes no position on the remainder of the summary determination ID. Specifically, the Commission takes no position on whether Verizon's investments in the FiOS network satisfy the economic prong.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360, USITC Pub. No. 2843 (Dec. 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. See Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to provide the expiration date of the '748 patent and state the HTSUS numbers under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than the close of business on August 4, 2011. Reply submissions must be filed no later than the close of business on August 12, 2011. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* section 201.6 of the Commission's Rules of Practice and Procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for this action is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–.46 and .50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–.46,.50).

Issued: July 21, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–19183 Filed 7–28–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of the Consent Decree Under the Clean Water Act

Notice is hereby given that on July 19, 2011, a proposed Consent Decree in *United States* v. *Jersey City Municipal Utilities Authority* (''JCMUA''), Civil Action No. 2:11–04120 (SDW–MCA), was lodged with the United States Court for the District of New Jersey.

The proposed Consent Decree resolves JCMUA's Clean Water Act (CWA) violations stemming from its failure to properly operate and maintain its Combined Sewer Collection System, which resulted in dry weather overflows and numerous basement backups in the homes of residents of Jersey City. Under the terms of the Consent Decree, JCMUA will pay a $375,000 penalty, undertake a Supplemental Environment Project valued at $550,000, and implement injunctive relief valued at approximately $52 million. As part of the injunctive relief, JCMUA will undertake a Capacity and Condition Assessment Study, a telemetry monitoring program, implement a residential complaint tracking system, implement approved operation and maintenance schedules of its sewers, conduct a pump station evaluation, as well as implement numerous construction projects aimed at repairing or replacing deteriorating sewers within its Combined Sewer System.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either 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 the matter as *United States* v. *JCMUA,* D.J. Ref. 90–5–1–1–09499.

The Consent Decree may be examined at the Office of the United States Attorney, 970 Broad Street, Suite 700, Newark, New Jersey, and at U.S. EPA Region II, 290 Broadway, New York, New York. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting from the Consent Decree Library a copy of the consent decree for *United States* v. *JCMUA,* Civil Action No. 2:11–04120, please enclose a check in the amount of $15.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 2011–19178 Filed 7–28–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of the Consent Decree Under the Resource Conservation and Recovery Act

Notice is hereby given that on July 25, 2011, a proposed Consent Decree in *United States* v. *Chevron Puerto Rico, LLC, f/k/a Texaco Puerto Rico, Inc.* (''CHEVRON''), Civil Action No. 3:11–CV–1716, was lodged with the United States Court for the District of Puerto Rico.

The proposed Consent Decree resolves CHEVRON's Resource Conservation and Recovery Act (RCRA) and the Puerto Rico Underground Storage Tank Regulations (PRUSTR) violations stemming from its failure to provide overfill protection equipment at two underground storage tank (UST) facilities; failure to perform annual tests of automatic line leak detectors (ALLDs)

for piping; failure to maintain records of annual testing of ALLDs; failure to provide release detection for tanks and pressurized piping and failure to maintain records of compliance with release detection requirements for both tanks and pressurized piping. Under the terms of the Consent Decree, CHEVRON will pay a $600,000 penalty, undertake two Supplemental Environment Projects valued at approximately $3.4 million, and implement injunctive relief valued at approximately $1.8 million. As part of the injunctive relief under the Consent Decree, CHEVRON will install a fully automated release detection system for tanks and piping associated with the UST systems at 155 of CHEVRON's UST facilities no later than March 31, 2013. The automated release detection system will include automatic tank gauging for single wall tanks, interstitial monitoring for double wall tanks, and electronic line leak detectors for piping on the UST systems. CHEVRON also agrees under the Consent Decree to install dispenser pans under all dispensers no later than March 31, 2013 at 155 of CHEVRON's UST facilities.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either 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 the matter as *United States* v. *Chevron Puerto Rico, LLC,* D.J. Ref. 90–7–1–09727.

The Consent Decree may be examined at the Office of the United States Attorney, Torre Chardon Suite 1201, 350 Carlos Chardon Avenue, San Juan, Puerto Rico 00918, and at U.S. EPA Region II, 290 Broadway, New York, New York. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting from the Consent Decree Library a copy of the consent decree for *United States* v. *Chevron Puerto Rico, LLC,* Civil Action No. 3:11–CV–1716, please enclose a check in the amount of $13.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resource Division.

[FR Doc. 2011–19180 Filed 7–28–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Joint Stipulation Under the Clean Air Act

Notice is hereby given that on July 25, 2011, a proposed Joint Stipulation to Modify the Sixth Amendment to the Consent Decree entered in *United States* v. *BP Exploration and Oil Co., et al.,* (Civil No. 2:96 CV 095 RL) (''Joint Stipulation''), was lodged with the United States District Court for the Northern District of Indiana.

The Joint Stipulation modifies the Supplemental Environmental Project (referred to as the ''Natural Gas Conversion SEP'') required as part of the Sixth Amendment to the Consent Decree. The Sixth Amendment to the Consent Decree resolved the United States' civil claims against BP Products North America Inc. (''BP Products'') for alleged Clean Air Act (''CAA'') violations at its petroleum refinery located in Texas City, Texas (the ''Texas City Refinery''). The Joint Stipulation modifies the Natural Gas Conversion SEP so that heavy-duty diesel vehicles from third parties other than the City of Texas City, Texas and the Texas City Independent School District can now be converted as part of the Natural Gas Conversion SEP. The Joint Stipulation also requires BP Products to convert two additional heavy-duty diesel vehicles as part of the Natural Gas Conversion SEP, and eliminates the requirement to convert light-duty gasoline vehicles. Pursuant to the Sixth Amendment, BP Products was required to spend at least $6,000,000 on the Natural Gas Conversion SEP. Pursuant to the Joint Stipulation, BP Products will have to spend at least $6,250,000 in completing the modified SEP.

The Joint Stipulation also requires BP Products to perform a ''Handheld Air Monitor SEP.'' As part of this SEP, BP Products will provide the Galveston County Health District and the Texas City Fire Department with handheld ambient air monitors that are capable of detecting volatile organic compounds (VOCs), as well as other toxic and combustible gases. BP Products is required to spend at least $35,000 in completing the Handheld Air Monitor SEP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Joint Stipulation. 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. *BP Exploration & Oil Co., et al.,* D.J. Ref. 90–5–2–1–07109.

During the public comment period, the Joint Stipulation may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Joint Stipulation 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. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $3.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by e-mail or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Maureen M. Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–19188 Filed 7–28–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement—Two Hearings of the National Institute of Corrections Advisory Board

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals to enter into a cooperative agreement for a 12-month period to begin no later than September 1, 2011. Work under this cooperative agreement will involve organizing two hearings of

the NIC Advisory Board. The hearings will assist the Board in providing directions to NIC and the corrections field on the subject of organizational culture (hearing #1) and cost containment (hearing #2). The first hearing will be held on November 2–3, 2011 in San Diego, California. The second hearing will be held in April or May 2012 in Aurora, Colorado (note that the site for hearing #2 will be the National Correctional Academy in Aurora, Colorado).

DATES: Applications must be received by 4 p.m. (EDT) on Wednesday, August 10, 2011. Selection of the successful applicant and notification of review results to all applicants will be made by September 1, 2011.

ADDRESSES: Mailed applications must be sent to Director, National Institute of Corrections, 320 First Street, NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20001. At the front desk, call (202)307–3106, extension 0 for pickup.

Faxed or e-mailed applications will not be accepted. Electronic applications can be submitted via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement can be downloaded from the NIC Web site at *http://www.nicic.gov/cooperativeagreements.*

All technical or programmatic questions concerning this announcement should be directed to Sherry Carroll. She can be reached by e-mail at *scarroll@bop.gov.*

SUPPLEMENTARY INFORMATION: The recipient of the award under this cooperative agreement will organize and coordinate all logistical details for two hearings of the NIC Advisory Board. All expenses for these two hearings, expected to last up to two days with up to 25 invited witnesses, will be provided out of the funding awarded under this agreement. Witnesses for each meeting will be identified by NIC, and the location of the meetings will be in San Diego, California, and Aurora, Colorado. The recipient will also make arrangements for lodging for up to 15 members of the NIC advisory board and up to 10 NIC staff members, but will not be responsible for the Board or NIC staff travel, lodging, or per diem costs. Arrangements should allow for up to 25 observers who will attend the hearings at their own expense, including Federal and state officials, the media, or other guests, to be accommodated. The recipient will not be required to coordinate travel or lodging for observers.

The recipient of this award will assist NIC in locating an appropriate venue and coordinating local arrangements, including a meeting room to accommodate up to 75 people, food, and beverage services, at the site. The recipient will assist the 25 witnesses in each of the two hearings in arranging travel, lodging, and reimbursing costs in conformity with Federal guidelines. Some witnesses or presenters may also be eligible to receive compensation for their participation, which may be in the form of a white paper or presentation (up to $10,000 total for both hearings should be budgeted for this expense).

With input from NIC, the recipient will prepare each hearing's agenda, participant lists, white papers, handouts, and supplementary materials; provide electronic copies to NIC communications staff; duplicate hard copy versions in sufficient quantities; and deliver them to the venue. With input from NIC, the participant will prepare and distribute a press release concerning the event, prepare press kits, and facilitate coverage of the hearings by national media outlets, including newspaper, radio, television, and Web-based news organizations. The recipient will arrange for or supply all audio-visual equipment necessary for hearing #1. The recipient will also make the necessary arrangements to record the proceedings, either by audio or video, and with a note taker for each meeting.

In addition to providing staff on site for each of the two hearings, the recipient should also budget for up to four, one-day planning sessions with NIC Advisory Board members and NIC staff to take place in Washington, DC, or Aurora, Colorado, during the award period.

Deliverables: By the end of the project, the recipient of this award will deliver the following products: (1) Detailed notes of the proceedings of each hearing delivered within 30 days of the event; (2) Each of the white papers produced for the meetings, edited to be suitable for distribution to corrections practitioners and delivered in NIC's standard format; and (3) A summary report providing an overview of the meetings, their major themes, and any recommendations for the field.

Required Expertise: Successful applicants should have the organizational capacity to complete all the tasks listed above, including demonstrated experience in organizing meetings of the size and type described, working closely with the media, and facilitating hearing coverage. Preference will also be given to applicants with a record of working with similar subject matter expert groups in government or criminal justice.

Application Requirements: Applications should be concisely written, typed double spaced and reference the ''NIC Opportunity Number'' and Title provided in this announcement. Please limit the program narrative text to 20 double spaced, numbered pages. The application package must include: a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* September 1, 2011 through June 30, 2012), a program narrative responding to the requirements in this announcement, a description of the qualifications of the applicant(s), an outline explaining projected costs, and the following forms: OMB Standard Form 424, Application for Federal Assistance, OMB Standard Form 424A, Budget Information—Non Construction Programs, OMB Standard Form 424B, Assurances—Non Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (available at *http://www.nicic.org/Downloads/PDF/certif-frm.pdf).*

Applications may be submitted in hard copy, or electronically via *http://www.grants.gov.* If submitted in hard copy, there must be one, unbound original plus three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

Authority: Public Law 93–415.

Funds Available: Up to $100,000 is available for this project, subject to available funding, but preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work. Determination will be made based on best value to the government, not necessarily the lowest bid. Funds may be used only for the activities that are directly related to the project.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual or team with expertise in the described areas.

This project will be a collaborative venture with the NIC Administration Division.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows:

Organizational (75%)

Does the applicant have the necessary capacity and staff with the skills, knowledge, and expertise to demonstrate a high level of competency to carry out the tasks? Are the proposed project management and staffing plans realistic and sufficient to complete the project? Has the organization had past experience in organizing similar events in government or the criminal justice area?

Budget (25%)

Is the proposed budget realistic? Does it provide sufficient cost detail/narrative and represent good value relative to the anticipated results? Is there evidence that the applicant has proposed the most cost effective way of performing the work? Are there any innovative strategies proposed to contain costs?

Note: NIC will NOT award a cooperative agreement to an applicant unless they have a Dun and Bradstreet Database Universal Number (DUNS) and are registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: *http://www.ccr.gov.* A CCR Handbook and work sheet can also be reviewed at the Web site.

Publications produced under this award must follow the ''Guidelines for Preparing and Submitting Manuscripts for Publication'' as found in the General Guidelines for Cooperative Agreements which will be included in the award package.

Number of Awards: One.

NIC Opportunity Number: 11AD11. This number should appear as a reference line in the cover letter, where the opportunity number is requested on the Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.602.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2011–19223 Filed 7–28–11; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before August 29, 2011.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment Standards of 29 CFR part 1915 require that employers: (1) Ensure competent persons conduct inspections and atmospheric testing prior to workers entering a confined or enclosed space (§ 1915.12(a)–(c)); (2) warn workers not to enter hazardous spaces and other dangerous atmospheres (§§ 1915.12 (a)–(c), 1915.16); (3) train workers who will be entering confined or enclosed spaces and certify such training has been provided (§ 1915.12(d)); (4) establish and train shipyard rescue teams or arrange for outside rescue teams and provide them with information (§ 1915.12(e)); (5) ensure one person on each rescue team maintains a current first aid training certificate (§ 1915.12(e)); (6) exchange information regarding hazards, safety rules, and emergency procedures concerning these spaces and atmospheres with other employers whose workers may enter these spaces and atmospheres (§ 1915.12(f)); (7) ensure testing of spaces having contained combustible or flammable liquids or gases and toxic, corrosive, or irritating substances, and other dangerous atmospheres, boundaries or pipelines before cleaning and other cold work is started and as necessary thereafter while the operations are ongoing (§ 1915.13(b)(2) and (4)); (8) post signs prohibiting ignition sources within or near a space that contains bulk quantities of flammable or combustible liquids or gases (§ 1915.13(b)(10)); (9) ensure confined and enclosed spaces are tested before workers perform hot work in these work areas (§ 1915.14(a)); (10) post warnings of testing conducted by competent persons and certificates of testing conducted by a Marine Chemist or Coast Guard authorized person in the immediate vicinity of the hot-work operation while the operation is in progress (§ 1915.14(a) and (b)); and (11) retain certificates of testing on file for at least three months after completing the operation (§ 1915.14(a)(2)).

These information collections are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1218–0011. The current OMB approval is scheduled to expire on August 31, 2011; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month

extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on March 29, 2011 (76 FR 17448).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should reference OMB Control Number 1218–0011. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title of Collection: Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment.

OMB Control Number: 1218–0011.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 639.

Total Estimated Number of Responses: 1,905,700.

Total Estimated Annual Burden Hours: 312,764.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 25, 2011.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2011–19219 Filed 7–28–11; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Extension of Information Collection (Without Revisions): ETA Form 9141—Application for Prevailing Wage Determination and ETA Form 9142—Application for Temporary Employment Certification

AGENCY: Employment and Training Administration.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, is conducting a pre-clearance consultation to provide the general public and Federal agencies with an opportunity to comment on the continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) 44 U.S.C. 3506(c)(2)(A). The Department undertakes this consultation to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Through this Notice, the Employment and Training Administration (ETA) is soliciting comments concerning the extension of the approval for the information collection, Office of Management and Budget (OMB) Control Number 1205–0466, containing ETA Form 9141—*Application for Prevailing Wage Determination* and ETA Form 9142—*Application for Temporary Employment Certification,* which expires on November 30, 2011. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Please submit written comments to the office listed in the addressee section below on or before September 27, 2011.

ADDRESSES: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C–4312, 200 Constitution Ave., NW., Washington, DC 20210; by phone at (202) 693–3010 (this is not a toll-free number); by fax at (202) 693–2768; or by e-mail at *ETA.OFLC.Forms@dol.gov* subject line: ETA Form 9141 and ETA Form 9142.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by sections 203(b)(3), 212(a)(5)(A), 212(m), (n), (t), 214(c), and 218 of the Immigration and Nationality Act (INA) (8 U.S.C. § 1153(b)(3), 1182(a)(5)(A), 1182(m), (n), (t), 1184(c), and 1188) and 8 CFR 214.2(h). The INA and applicable DHS regulations require the Secretary of Labor (Secretary) to certify, among other things, that any foreign worker seeking to enter the United States (U.S.) for the purpose of performing certain skilled or unskilled labor will not, by doing so, adversely affect wages and working conditions of U.S. workers similarly employed. The Secretary must also certify that there are not sufficient U.S. workers able, willing, and qualified to perform such skilled or unskilled labor. Before an employer may petition for temporary or permanent skilled or unskilled foreign workers, it must submit a request for certification to the Secretary containing the elements prescribed by the INA and regulations, which differ depending on the visa program under which the labor is sought. In addition, before the Secretary can certify that wages for U.S. workers have not been adversely affected, she must ensure that the employer offers the required wage to the foreign workers in accordance with the Department's applicable labor certification regulations.

II. Review Process

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

In order to meet its responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to the H–2A and

H–2B programs for temporary employment certification in agricultural and non-agricultural occupations (ETA Form 9142—*Application for Temporary Employment Certification*) and the prevailing wage determinations in most other programs (ETA Form 9141—*Application for Prevailing Wage Determination*).

Type of Review: Extension (without revisions) of a currently approved information collection.

Agency: Employment and Training Administration.

Title(s): Application for Prevailing Wage Determination and Application for Temporary Employment Certification.

OMB Number: 1205–0466.

Agency Form(s): ETA Form 9141 and ETA Form 9142.

Recordkeeping: On occasion.

Affected Public: Farms, businesses or other for-profits, not-for-profits, states, local governments, and tribal governments.

Total Respondents: 104,500.

Estimated Total Burden Hours: 469,004.

Total Burden Cost (capital/startup): $1,752,700.

Total Burden Cost (operating/maintaining): 0.

The Department will summarize and/or include comments submitted in response to this comment request in its request for OMB approval of the information collection. The comments will also become a matter of public record.

Signed in Washington, DC this 26th day of July 2011.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2011–19261 Filed 7–28–11; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *July 4, 2011 through July 8, 2011.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.,* conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,038; Fac-Ette Manufacturing, Inc., Leland, NC: March 10, 2010.

TA–W–80,105; United Carving, Inc., Hickory, NC: April 13, 2010.
TA–W–80,129; Smothers Hosiery, LLC, Sylvania, AL: April 21, 2010.
TA–W–80,177; Southern Textiles, Forsyth, GA: May 5, 2010.
TA–W–80,165; Kurz-Kasch, Miamisburg, OH: May 6, 2010.
TA–W–80,231; Bird's Eye Foods, LLC, Tacoma, WA: June 10, 2010.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA–W–80,106; Leased Workers from Kelly Service, El Paso, TX: April 5, 2010.
TA–W–80,235; Nidec Motor Corporation, Paragould, AR: June 14, 2010.
TA–W–80,242; M/A-Com Technology Solutions, Torrance, CA: June 17, 2010.
TA–W–80,243; Cleo, Inc., Memphis, TN: June 9, 2010.
TA–W–80,260; Unimin Corporation, Aurora, IN: June 27, 2010.
TA–W–80,264; Keithley Instruments, Solon, OH: June 30, 2010.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–80,061; Sara Lee Corporation, Bensenville, IL.

TA–W–80,151; Sound Publishing, Inc., Everett, WA.

TA–W–80,240; Pearson Education, Inc., Old Tappan, NJ.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–80,035; Ericsson Services, Inc., Kentwood, MI.

TA–W–80,180; JPMorgan Chase and Company, Houston, TX.

TA–W–80,232; StarTek USA, Inc., Collinsville, VA.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

Federal Register and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

None.

I hereby certify that the aforementioned determinations were issued during the period of *July 4, 2011 through July 8, 2011*. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov*. These determinations also are available on the Department's Web site at *http://www.doleta.gov/tradeact* under the searchable listing of determinations.

Dated: July 18, 2011.

Michael W. Jaffe,

Certifying Officer, Office, Trade Adjustment Assistance.

[FR Doc. 2011–19209 Filed 7–28–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 8, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 8, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 15th day of July 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX—TAA PETITIONS INSTITUTED BETWEEN 7/4/11 AND 7/8/11

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80266	British Aerospace Engineering (Workers)	Fairfield, OH	07/05/11	06/30/11
80267	Henkel Corporation (Company)	City of Industry, CA	07/05/11	07/01/11
80267A	Henkel Corporation (Company)	Canton, MA	07/05/11	07/01/11
80268	Cadmus Communications, A Cenveo Co. (Workers)	Ephrata, PA	07/05/11	07/05/11
80269	Crocs (Workers)	Niwot, CO	07/05/11	07/01/11
80270	Avery Dennison Corporation (Company)	Sayre, PA	07/05/11	06/30/11
80271	HarperCollins Publishers (Company)	Williamsport, PA	07/06/11	07/05/11
80272	Knight LLC (State/One-Stop)	Lake Forest, CA	07/07/11	06/07/11

APPENDIX—TAA PETITIONS INSTITUTED BETWEEN 7/4/11 AND 7/8/11—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80273	Weave Textiles LLC (Company)	Denver, PA	07/08/11	07/07/11

[FR Doc. 2011–19210 Filed 7–28–11; 8:45 am]

BILLING CODE 4510–FN–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–26; Order No. 768]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Hamilton, Iowa post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Administrative record due (from Postal Service):* August 5, 2011; *deadline for notices to intervene:* August 16, 2011. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on July 21, 2011, the Commission received a petition for review of the Postal Service's determination to close the post office in Hamilton, Iowa. The petition, which was filed by Bruce Pettyjohn (Petitioner), is postmarked July 12, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2011–26 to consider Petitioner's appeal. If Petitioner would like to further explain his position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than August 25, 2011.

Categories of issues apparently raised. Petitioner appears to contend that the Postal Service failed to consider the effect of the closing on the community. *See* 39 U.S.C. 404(d)(2)(A)(i).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is August 5, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this notice is August 5, 2011.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before August 16, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than August 5, 2011.

2. Any responsive pleading by the Postal Service to this notice is due no later than August 5, 2011.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

PROCEDURAL SCHEDULE

July 21, 2011	Filing of Appeal.
August 5, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
August 5, 2011	Deadline for the Postal Service to file any responsive pleading.
August 16, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
August 25, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
September 14, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
September 29, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
October 6, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
November 9, 2011	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–19169 Filed 7–28–11; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–27; Order No. 769]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Rodney, Iowa post office has been filed. It identifies preliminary steps and provides a procedural schedule. Publication of this document will allow the Postal Service, petitioners, and others to take appropriate action.

DATES: *Administrative record due (from Postal Service):* August 5, 2011; *deadline for notices to intervene:* August 16, 2011. *See* the Procedural Schedule in the **SUPPLEMENTARY INFORMATION** section for other dates of interest.

ADDRESSES: Submit comments electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *https://www.prc.gov/prc-pages/filing-online/login.aspx.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 39 U.S.C. 404(d), on July 21, 2011, the Commission received a petition for review of the Postal Service's determination to close the post office in Rodney, Iowa. The petition, which was filed by Zella Thomas, Mayor of the city of Rodney (Petitioner), is postmarked July 13, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2011–27 to consider Petitioner's appeal. If Petitioner would like to further explain her position with supplemental information or facts, Petitioner may either file a Participant Statement on PRC Form 61 or file a brief with the Commission no later than August 25, 2011.

Categories of issues apparently raised. Petitioner appears to contend that the Postal Service failed to consider certain aspects of 39 U.S.C. 404(d)(2)(A)(iii).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than the one set forth above, or that the Postal Service's determination disposes of one or more of those issues. The deadline for the Postal Service to file the applicable administrative record with the Commission is August 5, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this notice is August 5, 2011.

Availability; Web site posting. The Commission has posted the appeal and supporting material on its Web site at *http://www.prc.gov.* Additional filings in this case and participants' submissions also will be posted on the Commission's Web site, if provided in electronic format or amenable to conversion, and not subject to a valid protective order. Information on how to use the Commission's Web site is available online or by contacting the Commission's webmaster via telephone at 202–789–6873 or via electronic mail at *prc-webmaster@prc.gov.*

The appeal and all related documents are also available for public inspection in the Commission's docket section. Docket section hours are 8 a.m. to 4:30 p.m., Monday through Friday, except on Federal government holidays. Docket section personnel may be contacted via electronic mail at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

Filing of documents. All filings of documents in this case shall be made using the Internet (Filing Online) pursuant to Commission rules 9(a) and 10(a) at the Commission's Web site, *http://www.prc.gov,* unless a waiver is obtained. *See* 39 CFR 3001.9(a) and 3001.10(a). Instructions for obtaining an account to file documents online may be found on the Commission's Web site or by contacting the Commission's docket section at *prc-dockets@prc.gov* or via telephone at 202–789–6846.

The Commission reserves the right to redact personal information which may infringe on an individual's privacy rights from documents filed in this proceeding.

Intervention. Persons, other than the Petitioner and respondent, wishing to be heard in this matter are directed to file a notice of intervention. *See* 39 CFR 3001.111(b). Notices of intervention in this case are to be filed on or before August 16, 2011. A notice of intervention shall be filed using the Internet (Filing Online) at the Commission's Web site unless a waiver is obtained for hardcopy filing. *See* 39 CFR 3001.9(a) and 3001.10(a).

Further procedures. By statute, the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. 404(d)(5). A procedural schedule has been developed to accommodate this statutory deadline. In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service or other participants to submit information or memoranda of law on any appropriate issue. As required by the Commission rules, if any motions are filed, responses are due 7 days after any such motion is filed. *See* 39 CFR 3001.21.

It is ordered:

1. The Postal Service shall file the applicable administrative record regarding this appeal no later than August 5, 2011.

2. Any responsive pleading by the Postal Service to this notice is due no later than August 5, 2011.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Cassandra L. Hicks is designated officer of the Commission (Public Representative) to represent the interests of the general public.

5. The Secretary shall arrange for publication of this notice and order in the **Federal Register**.

PROCEDURAL SCHEDULE

July 21, 2011	Filing of Appeal.
August 5, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
August 5, 2011	Deadline for the Postal Service to file any responsive pleading.
August 16, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
August 25, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
September 14, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
September 29, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
October 6, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
November 10, 2011	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–19176 Filed 7–28–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64953; File No. SR–CHX–2011–19]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify the Application of the Fee Schedule to Certain Transactions of, and Services to, CHX Participants and Make Certain Rate Changes

July 25, 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 July 20, 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, II, and III below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the ''Fee Schedule''), effective July 25, 2011, to amend its Fee Schedule to clarify the application of the Fee Schedule to certain transactions of, and services to, CHX Participants and make certain rate changes. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* 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 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

Through this filing, the Exchange is proposing to amend its Schedule of Fees and Assessments (''Fee Schedule'') to clarify the application of the Fee Schedule to various transactions consummated on or through the Exchange and to certain services provided by the Exchange to its Participants. The proposed changes accurately describe the manner in which the Exchange has and will continue to apply the Fee Schedule to such transactions and services.

Currently, the Fee Schedule provides for Processing Fees for fingerprinting, background checks and the provision of access badges by the Exchange.[5] The Exchange no longer provides either fingerprinting or background checking services for current or prospective CHX Participants, and we no longer wish to impose a fee for access badges. Therefore, the Exchange proposes to eliminate the fees for these services.

The Exchange is also clarifying the application of Section E.1. (Matching System single-sided order executions (one-sided orders of 100+ shares)) of the Fee Schedule to note that the Average Daily Volume (''ADV'') calculations performed by the Exchange to determine the amount of provide credit paid to a Participant are not being performed when the Regular Trading Session closes early.[6] Trade volume on days on which the Late Trading Sessions close early, however, would continue to be counted towards the ADV calculation. In addition, we are eliminating the provide credit paid to Exchange-registered Institutional Brokers (''Institutional Brokers'') in transactions in securities priced less than one dollar. As noted in the discussion of the changes to Section E.3. of the Fee Schedule, *supra,* we are proposing to eliminate the charge in transactions in securities priced less than one dollar to Participants which submit orders through an Institutional Broker. It would not be economically feasible for the Exchange to continue to pay a provide credit to Institutional Brokers in transactions in which the Exchange

[5] Section C. (Registration Fees) of the Fee Schedule.

[6] The Exchange proposes to change the phrase ''single order executions'' in the caption to Section E.1, to ''single-sided order executions'' to clarify that this section does not apply to cross orders.

does not earn any transaction revenue. Finally, the provide credit paid to Institutional Brokers in transactions in securities at or above one dollar during the Regular Trading Session is being reduced to $0.0027/share in Tape A and C securities and $0.0028/share in Tape B securities from $0.0029/share. This reduction reflects the lower amount of revenue generated in such transactions due to the rate changes for agency executions submitted through an Institutional Broker.[7] The Exchange is also lowering the rate of the provide credit paid to Institutional Brokers representing the Participant which originated the order (regardless of the ADV attributable to either firm) for trades executed in the Early and Late Trading Sessions to $0.0022/share in Tape A, B and C securities priced $1.00/share.

The Exchange believes that it would be beneficial to clarify the application of the Fee Schedule to certain cross transactions by modifying the text of Section E.2. (Matching System crosses (All Sessions)) of the Fee Schedule. The Exchange proposes to move the reference to proprietary trades by an Institutional Broker from Section E.2. to Section E.3. (Executions through an Institutional Broker Registered with the Exchange Under Article 17 (All Sessions)). The Exchange believes that Section E.2. is properly construed to apply solely to cross transactions entered directly by a Participant firm to the Matching System by electronic means, and without the involvement of an Institutional Broker. Unlike transactions (including cross trades) handled by an Institutional Broker, cross transactions entered directly into the Matching System by a CHX Participant and executed there are not assessed any charge. The removal of the language regarding proprietary cross trades executed by an Institutional Broker from this section should help to eliminate any potential ambiguity on this treatment. To reinforce this point, we are adding a clause to the last sentence in this section which states that these provisions do not apply to cross orders submitted by an Institutional Broker registered with the Exchange.[8]

The Exchange is modifying Section E.3. of the Fee Schedule to clarify the proper application of the Fee Schedule to transactions handled by an Institutional Broker. We propose to move the charge relating to proprietary crosses of an Institutional Broker formerly reflected in Section E.2 to new Section E.3.b. (Proprietary Executions). The new language clarifies that the fee assessed to the Institutional Broker of $.0007/share also applies to any odd lot component of the cross trade. The new text also explicitly provides that the Participant on the other side of the transaction is to be assessed the fee normally assessed to a Participant whose order is handled by an Institutional Broker, as set forth in proposed new Section E.3.a. of the Fee Schedule. Current Section E.3. has been renumbered as Proposed Section E.3.a. Proposed Section E.3.a. sets forth a revised fee rate of $.003/share for all trades (regardless of whether the security is a Tape A, B or C security) handled through an Institutional Broker.[9] The revised text makes explicit that the fees pursuant to both Section 3.a. of the Fee Schedule are charged to the Participant Firm in which name the transaction is submitted for clearance and settlement (including both single-sided and cross orders) through an Institutional Broker. The Exchange proposes to add text excluding odd-lot orders from these provisions, as those orders are assessed the Odd Lot fee pursuant to Section E.4. (Odd-lot Matching System fee (single-sided orders of less than 100 shares) (All Sessions)) of the Fee Schedule. The Exchange also proposes to eliminate the reference to trades executed by an Institutional Broker ''in another market,'' since the Exchange does not impose the transaction fee under Section E.3. for non-CHX executions. The Exchange further proposes to clarify that the maximum charge per side shall be computed for each Participant firm on a side (buy or sell) of a execution and separately for a Participant which is represented by more than one Institutional Broker Representative (as defined in Article 17, Rule 1 of the Exchange's rules). Finally, the Exchange proposes to add a provision setting the fees at zero for Institutional Broker-handled transactions in securities priced under $1.

The Exchange proposes to modify the text of Section E.4. of the Fee Schedule relating to transactions in odd lots. The proposed new language would clarify that the odd lot fees apply to orders submitted to the Matching System (whether electronically by the Participant or through an Institutional Broker) as an odd-lot order. The revised text reflects CHX's current practice of not applying odd lot fees to orders not entered into the Matching System as an odd-lot order, but which become odd lots due to partial executions. Transactions in odd-lot remainders would be charged the fee rate set forth in Section E.1. of the Fee Schedule.

The Exchange is proposing to delete Section E.6. of the Fee Schedule relating to Matching System routing fees, since the CHX does not currently offer automated routing services. This Section will be reserved for future use in the event that the Exchange decides to offer such services, or for other purposes.

The Exchange is proposing certain changes to the trade processing fees to clarify that such fees are charged to CHX Participants for cross transactions that are executed in the over-the-counter (''OTC'') marketplace and are reported to clearing by the Exchange's systems, pursuant to Section E.7. (Trade Processing Fees) of the Fee Schedule. The Exchange is also modifying the types of transactions subject to the Trade Processing Fee to eliminate transaction executed directly in the OTC marketplace by an Institutional Broker and in its place substitute executed cross trades which originated with an Institutional Broker and were transmitted to and executed by another broker-dealer (which is not an Institutional Broker) in the OTC marketplace and which were submitted to clearing by the Exchange's systems.[10] This amendment reflects ongoing discussions between the Exchange and the staff of the Commission regarding limitations on the ability of Institutional Brokers to directly execute trades in the OTC marketplace. The Exchange also proposes to modify the current fee rate and maximum charge for trade processing fees to conform to the rates charged for transactions submitted through an Institutional Broker pursuant to Section E.3. of the Fee Schedule. In such transactions, the Exchange currently charges $.0035/share, up to a maximum of $100 per side for Tape A and B securities, and $.0025/share, up to a maximum of $100 per side for Tape C securities. By this proposal, we would change these rates to $.003/share, up to

[7] These rate changes are discussed infra as part of the modifications to Section E.3. of the Fee Schedule.

[8] Throughout the proposal, the Exchange proposes to modify references to ''institutional brokers'' to clarify that such references are limited to Institutional Brokers registered with the Exchange pursuant to Article 17 of our rules, and not to institutional brokers as colloquially referred to in the securities industry.

[9] The revised fee rate conforms to the proscriptions of the Reg NMS Rule 610 (the ''Access Rule'').

[10] In such transactions, the third-party broker-dealer would report the transaction to the appropriate Trade Reporting Facility, and provide an execution report to the Institutional Broker, which in turn would enter the information into the Exchange's systems for submission to clearing.

a maximum of $100 per side for all securities. We are also proposing to define ''per side'' in the same manner as in Section E.3. These changes would maintain the current state under which the fees charged pursuant to Sections E.3. and E.7. are identical.

The Exchange is proposing to eliminate the Clearing Support Fees currently set forth in Section H of the Fee Schedule. The CHX no longer performs the services described in Section H and has no present intention of doing so in the future. The elimination of these fees would clarify to CHX Participants that the Exchange does not provide clearing support services.

Finally, the Exchange proposes to eliminate the fees for CCH Rulebooks (which the Exchange no longer provides to Participants) and monthly Brokerplex reports (which the Exchange will provide at no cost) pursuant to Section L.2. and 3. (Supplies and Reports), respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(4) of the Act [12] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange is proposing to eliminate certain fees in their entirety which would reduce the financial obligation of Participants to the CHX. The fees to be eliminated include certain processing fees for fingerprints, background checks and badges (Section C of the Fee Schedule), Matching System routing fees (Section E.6. of the Fee Schedule), Clearing Support Fees (Section H of the Fee Schedule), and fees for rulebooks and certain reports (Section L of the Fee Schedule). In Section E.1., the Exchange is reducing the provide credit paid to Institutional Brokers in Regular Trading Hours session transaction from $0.0029/share in Tape A and C securities to $0.0027/share and from transaction from $0.0031/share in Tape B securities to $0.0028/share. In this same Section, the Exchange is further proposing a provide credit be paid to Institutional Brokers of $0.0022/share in securities priced greater than $1.00/share for trades in the Early and Late Trading Sessions. The Exchange also proposes that no provide credit shall be paid to Institutional Brokers in transactions in securities priced less than $1.00/share. The Exchange believes that the reduction in provide credits paid to Institutional Brokers for trades during the Regular Trading Session, as well as the elimination of the provide credit paid to Institutional Brokers in transactions in all trading sessions in securities priced less than $1.00, are appropriate because they will enable the Exchange to retain a greater amount of the revenue associated with such transactions, which in turn will assist the CHX in funding its internal operations including the oversight of Institutional Brokers. The Exchange further believes that the rate changes in Section E.1. as to the Early and Late Trading Sessions are appropriate because the proposed rates corresponds to the provide credit generally paid to Participants for trades in the Early and Late Trading Sessions.

The Exchange believes that the rate changes for CHX-executed transactions entered through an Institutional Broker are fair and appropriate (Section E.3. of the Fee Schedule). The Exchange hopes that these rate changes will help it attract additional order flow to the Exchange, as well as be consistent with the limitations on fees charged by exchanges for access to quotations as set forth in Rule 610(c) of Regulation NMS. The Exchange is making parallel changes to the Trade Processing Fees set forth in Section E.7. of the Fee Schedule charged in connection with the submission to clearing by the CHX of non-Exchange trades handled by an Institutional Broker in order to maintain the current level of parity in such fees with the fees charged pursuant to Section E.3. of the Fee Schedule. The Exchange is also adding to the types of transactions subject to the Trade Processing Fee any executed trades submitted to Clearing by the Exchange's systems which originated with an Institutional Broker and were transmitted to and executed by another broker-dealer in the over-the-counter market. This addition reflects ongoing discussions between the Exchange and the staff of the Commission regarding limitations on the ability of Institutional Brokers to directly execute trades in the over-the-counter marketplace.

The Exchange further believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it allows the Exchange to be organized and have the capacity to be able to carry out the purposes of the Act and to comply, and (subject to any rule or order of the Commission pursuant to section 17(d) or 19(g)(2) of the Act) to enforce compliance by its members and persons associated with such members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange. The proposed clarifying changes to the Fee Schedule would establish the fees as they were approved by the Exchange and would contribute to the ability of its Participants to comply with the provisions of the Fee Schedule by clarifying to such Participants the basis upon which the Exchange charges for various of its fees and services. The proposed clarifying changes include the following: (1) The limitation of Section E.1. to single-sided orders (2) that the Average Daily Trading volume calculation for purposes of applying the tiered rate schedule of Section E.1. does not include days when the Regular Trading Session closes early; (3) that the phrase ''institutional broker'' be capitalized to reflect the intention to limit it to Institutional Brokers registered with the CHX pursuant to Article 17 of our rules; (4) that the provisions of Section E.2. apply only to crosses executed in the Matching System and which were not entered through an Institutional Broker; (5) the manner in which the CHX imposes fees on Institutional Brokers for proprietary trades executed in the Matching System; (6) the manner in which the CHX imposes fees on Participants for Exchange transactions entered through an Institutional Broker; (7) the application of the $100 maximum charge in the transactions noted in (6); and (8) the imposition of fees on odd-lot orders.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [13] and subparagraph (f)(2) of Rule 19b–4 thereunder [14] because it establishes or changes a due, fee or other charge

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

applicable to the Exchange's members, which renders the proposed rule change effective upon filing.

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–2011–19 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–2011–19. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CHX–2011–19 and should be submitted on or before August 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19189 Filed 7–28–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64958; File No. SR–NASDAQ–2011–095]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Proprietary Trader Examination

July 25, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on July 12, 2011, The NASDAQ Stock Market LLC (the ''Exchange'' or ''NASDAQ'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is filing with the Securities and Exchange Commission (''Commission'') a proposal for the NASDAQ Options Market (''NOM'') to amend its Rule 1032, Categories of Representative Registration, to adopt a new limited category of representative registration for proprietary traders, as described further below. NASDAQ intends to implement the proposal upon Commission approval[3] and availability in WebCRD; NASDAQ will communicate the applicable dates to NASDAQ members.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to recognize a new category of limited representative registration for proprietary traders. Currently, under NASDAQ rules, persons performing proprietary trading functions fall within the definition of representative in Rule 1011, because Rule 1011 includes persons who are engaged in the investment banking or securities business of a member. Specifically, a ''Representative'' means an Associated Person[4] of a registered broker or dealer who is engaged in the investment banking or securities business for the member including the functions of supervision, solicitation or conduct of business in securities or who is engaged in the training of persons associated with a broker or dealer for any of these functions are designated as representatives. As provided in Rule 1031, all Representatives of NASDAQ Members are required to be registered with NASDAQ, and Representatives that are so registered are referred to as ''Registered Representatives.''

NASDAQ has been working with FINRA and certain other exchanges, many of which have recently enhanced their registration requirements to

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that this filing is effective on filing.

[4] Pursuant to Rule 1011(b), the term ''Associated Person'' means any partner, officer, director, or branch manager of a NASDAQ member or Applicant (or person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such NASDAQ member or Applicant, or any employee of such NASDAQ member or Applicant, except that any person associated with a NASDAQ member or Applicant whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of the NASDAQ Rules.

require the registration of associated persons,[5] to develop the content outline and qualification examination that would be applicable to proprietary traders. This new qualification examination, the Series 56, was recently filed with the Commission;[6] NASDAQ expects to file the content outline with the Commission as well and make it available upon availability in WebCRD. Accordingly, NASDAQ is amending its rules to recognize the new registration category ''Proprietary Trader'' and the new examination, the Series 56.

Specifically, NASDAQ proposes to adopt new subparagraph (c) to Rule 1032 to recognize the ''Proprietary Trader'' category of registration. Like other categories of limited representative registration currently available, the new Proprietary Trader category would be limited to persons performing the functions specified in new Rule 1032(c), which is proprietary trading. The proposed rule expressly provides that such person's activities in the investment banking or securities business are limited solely to proprietary trading, that he passes the Series 56 and that he is an associated person of a proprietary trading firm as defined in Rule 1011(o).[7]

Persons who deal with the public do not fit in this registration category and must continue to register as General Securities Representatives. NASDAQ believes that the new limited registration category and qualification examination are appropriate, because they are tailored to proprietary trading functions. Today, these persons are required to register as a General Securities Representative and pass the Series 7 examination, which the Exchange believes covers a great deal of material that is not relevant to proprietary trading functions. Instead, the Series 56 covers both equities and options trading rules, but not all of the rules that are applicable to firms and persons conducting a public business. As stated above, NASDAQ will describe the Series 56 in greater detail in a separate proposed rule change.

Of course, persons registered in the new category would be subject to the continuing education requirements of Rule 1120. In addition, the process for registering continues to be covered by Rule 1140, which provides that WebCRD must be used.

Today, because NASDAQ rules require it, persons associated with NASDAQ members are already registered as General Securities Representatives and have passed the Series 7 examination. This proposal does not require proprietary traders who have already registered as General Securities Representatives and have passed the Series 7 examination to register under the new category as Proprietary Traders or to pass the Series 56, because NASDAQ believes this would be redundant. Persons who are registered as General Securities Representatives and have passed the Series 7 may, of course, perform the functions of a Proprietary Trader, because the new Proprietary Trader registration category is a limited registration category. This proposal does not preclude associated persons from registering as General Securities Representatives and passing the Series 7 examination and then functioning as a Proprietary Trader.

NASDAQ expects that new members might consider the new category when applying for NASDAQ membership, once the new category and examination become available to NASDAQ members in WebCRD. Accordingly, NASDAQ believes that the new category should be helpful to attracting new members to NASDAQ, while at the same time preserving the important goals of appropriate registration and qualification for persons in the securities business. Additionally, members who hire new associated persons might choose to register in the new category.

Unlike the associated persons of proprietary trading firms covered by this proposal, associated persons of firms that are NOT proprietary trading firms continue to be subject to registration as General Securities Representatives and have to pass the Series 7 examination.[8] They are not eligible for the new registration category and examination.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of: (1) Section 6(c)(3)(B) of the Act,[10] pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons; and (2) Section 6(b)(5) of the Act,[11] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, by offering a new, limited registration category to NASDAQ members. The Exchange believes that these new requirements should help ensure that all associated persons engaged in a securities business are, and will continue to be, properly trained and qualified to perform their functions, because the new category and examination are limited and tailored to persons performing proprietary trading functions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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 for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A)

[5] *See* Securities Exchange Act Release Nos. 63843 (February 4, 2011), 76 FR 7884 (February 11, 2011) (SR–ISE–2010–115); and 63314 (November 12, 2010), 75 FR 70957 (November 19, 2010) (SR–CBOE–2010–084).

[6] One exchange has thus far filed a proposed rule change respecting the Series 56, which has become effective. *See* Securities Exchange Act Release No. 64699 (June 17, 2011) (SR–CBOE–2011–056).

[7] Rule 1011(o) defines a proprietary trading firm as an Applicant with the following characteristics: (1) The Applicant is not required by Section 15(b)(8) of the Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act; (2) all funds used or proposed to be used by the Applicant for trading are the Applicant's own capital, traded through the Applicant's own accounts; (3) the Applicant does not, and will not have ''customers,'' as that term is defined in Nasdaq Rule 0120(g); and (4) all Principals and Representatives of the Applicant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the Applicant. ''Applicant'' is defined in Rule 1011(a).

[8] Such persons may also be subject to registration as an Equity Trader pursuant to Rule 1032(f), which requires successful completion of the Series 55 exam (for which the prerequisite is the Series 7 examination).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78(c)(3)(B).

[11] 15 U.S.C. 78f(b)(5).

of the Act [12] and Rule 19b–4(f)(6) [13] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2011–095 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–NASDAQ–2011–095. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of NASDAQ. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NASDAQ–2011–095 and should be submitted on or before August 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19191 Filed 7–28–11; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64954; File No. SR–FINRA–2010–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing Proposed Rule Change and Amendment No. 1 To Amend the Codes of Arbitration Procedure To Permit Arbitrators To Make Mid-Case Referrals

July 25, 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 July 12, 2010, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. On July 7, 2011, FINRA filed Amendment No. 1.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Amendment No. 1 to SR–FINRA–2010–036 replaces and supersedes the original rule filing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Rule 12104 of the Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and Rule 13104 of the Code of Arbitration Procedure for Industry Disputes (''Industry Code'') to broaden arbitrators' authority to make referrals during an arbitration proceeding.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA 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

(a) Background

In light of well publicized securities frauds that resulted in harm to investors, FINRA has reviewed the Customer and Industry Codes (together, Codes) and determined that its rules on arbitrator referrals should be amended to permit arbitrators to make referrals during an arbitration proceeding, rather than solely at the conclusion of a matter as is currently the case.

Currently, Rule 12104(b) of the Customer Code and Rule 13104(b) of the Industry Code state, in relevant part, that any arbitrator may refer to FINRA for disciplinary investigation any matter that has come to the arbitrator's attention during and in connection with the arbitration *only* at the conclusion of an arbitration (emphasis added). FINRA is concerned that the current rule's requirement that arbitrators in all instances must wait until a case is concluded before making a referral could hamper FINRA's efforts to uncover fraud as early as possible. FINRA is proposing, therefore, to broaden the arbitrators' authority under the Codes to make referrals, in limited

circumstances, during the hearing phase of an arbitration.

(b) Explanation of the Proposed Rule Changes to the Customer Code [4]

Rule 12104—Effect of Arbitration on FINRA Regulatory Activities

First, FINRA proposes to add the phrase ''Arbitrator Referral During or at Conclusion of Case'' to the title of Rule 12104 so that it reflects accurately the proposed changes. The new title would read: ''Effect of Arbitration on FINRA Regulatory Activities; Arbitrator Referral During or at Conclusion of Case.''

Second, the current rule would be rearranged to reflect the order in which an arbitrator may make a referral in an arbitration case. Subparagraph (a) would remain unchanged. The rule language in current subparagraph (b) of the rule, which addresses arbitrator referrals made only at the conclusion of the case (hereinafter, ''the post-case referral provision''), would be amended and moved to new subparagraph (e). In its place, FINRA would insert new rule language in subparagraph (b) to address arbitrator referrals made during the hearing phase of an arbitration (hereinafter, ''the mid-case referral provision''). New subparagraph (c) would require the Director of Arbitration to disclose the mid-case referral to the parties and permit the parties to request the referring arbitrators' recusal. New subparagraph (d) would provide the President of FINRA Dispute Resolution (President) and the Director with the authority to evaluate the arbitrator referral to determine whether to transmit it to other divisions of FINRA. Finally, new subparagraph (e) would contain the rule language in current subparagraph (b), with some minor amendments, to address post-case referrals.

Rule 12104(b)—Mid-Case Referral Provision

Rule 12104(b) would be amended to state that during the pendency of an arbitration, any arbitrator may refer to the Director any matter or conduct that has come to the arbitrator's attention during the hearing, which the arbitrator has reason to believe poses a serious threat, whether ongoing or imminent, that is likely to harm investors unless immediate action is taken. The proposed rule would also state that arbitrators should not make referrals during the pendency of an arbitration based solely on allegations in the statement of claim, counterclaim, cross claim, or third party claim. Further, the proposed rule would also state that if a case is nearing completion, the arbitrator should wait until the case concludes to make the referral if, in the arbitrator's judgment, investor protection would not be materially compromised by this delay.

First, FINRA is proposing to permit any arbitrator to make a mid-case referral to the Director but only after the commencement of an evidentiary hearing. The amended proposal would limit mid-case referrals, so that the referrals would be based on evidence presented by the parties during a hearing. FINRA believes this limitation would ensure that arbitrators have reviewed or heard actual evidence that would enable them to make an informed decision before making a mid-case referral.

Second, proposed Rule 12104(b) would state that arbitrators must not make mid-case referrals based only on allegations in the statement of claim, counterclaim, cross claim, or third party claim. Thus, mid-case referrals could not be based solely on the parties' pleadings.[5] Because Dispute Resolution routinely provides copies of arbitration claims and other pleadings to other FINRA divisions for analysis, mid-case referrals based only on the pleadings are not necessary to apprise those divisions of possible wrongdoing.[6] But if, during a hearing, arbitrators learn of information relating to an ongoing or imminent threat, the new rule would give them the discretion to make a mid-case referral to protect other investors. Moreover, by providing that the arbitrators should not make a mid-case referral based solely on the pleadings, the rule would limit unnecessary disruption to an ongoing case.

Third, the proposed rule would require that the arbitrator have reason to believe the serious threat, whether ongoing or imminent, is likely to harm investors unless immediate action is taken before making a mid-case referral. Under the proposed threshold of certainty, the referring arbitrator would not need to conclude that there is fraud, only that there is an indication of an ongoing or imminent threat that requires immediate action. FINRA believes the proposed threshold for making a mid-case referral would reduce the potential for a finding of arbitrator bias and would help a prevailing investor defend against a possible motion to vacate the award.

The Federal Arbitration Act establishes four grounds for vacating an arbitration award, one of which is evident partiality.[7] A party can establish an arbitrator's evident partiality by demonstrating that the arbitrator either failed to disclose relevant facts or displayed actual bias at the arbitration proceeding.[8] Thus, a party may attempt to overturn an award issued through FINRA's dispute resolution forum, based on an arbitrator's mid-case referral, on the ground that such a referral establishes an arbitrator's evident partiality. Generally, case law permits arbitrators to form opinions based on the evidence presented to them after they are appointed, and an award would not be vacated because arbitrators developed their views prior to the conclusion of the proceedings.[9] Accordingly, FINRA believes that the new standards, which would require an arbitrator to base a mid-case referral on evidence learned at a hearing, would reduce the potential for establishing arbitrator bias and would help a prevailing investor defend against a motion to vacate.

Last, proposed Rule 12104(b) also would provide arbitrators with the discretion to delay their referral until the end of a case if, in the arbitrator's judgment, investor protection will not be materially compromised by a short delay in making the mid-case referral. For example, if, during the third of four consecutively scheduled hearing days,[10] where the case is to conclude on the fourth day, the arbitrators learn of an ongoing or imminent threat that meets the criteria of the proposed rule, the arbitrators could defer making the mid-case referral until the conclusion of the case.[11] In deciding whether to delay

[4] As noted, FINRA also is proposing to amend Rule 13104 of the Industry Code to broaden the arbitrators' authority to make referrals in intra-industry cases. The explanations for the proposed changes to Rule 13104 are the same as those for Rule 12104 of the Customer Code.

[5] A pleading is a statement describing a party's causes of action or defenses. Documents that are considered pleadings are: a statement of claim, an answer, a counterclaim, a cross claim, a third party claim, and any replies. Rule 12100(s) of the Customer Code and Rule 13100(s) of the Industry Code.

[6] Dispute Resolution provides copies of all statements of claim, amended initial claims, counterclaims, amended counterclaims, cross claims, amended cross claims, third party claims, amended third party claims, and answers in promissory note cases to the Central Review Group (CRG), which is part of the Office of Fraud Detection and Market Intelligence, to analyze for fraudulent securities activity. If this analysis indicates possible securities violations, CRG may alert Enforcement for further review.

[7] 9 U.S.C. 10(a).

[8] *See Timothy L. Woods* v. *Saturn Distribution Corporation,* 78 F.3d 424, 427 (9th Cir. 1996).

[9] *Ballantine Books Inc.* v. *Capital Distributing Company,* 302 F.2d 17, 21 (2nd Cir. 1962).

[10] The average arbitration hearing takes slightly under 5 days.

[11] If the referring arbitrator delays making the referral until the conclusion of the case, the referral would then take place under the current rule, which provides for referrals at the conclusion of a case.

making a mid-case referral, however, arbitrators should weigh the potential harm a mid-case referral could have on the individual claimant against the possible harm to the markets and other investors that a brief delay, one day in the example above, could cause.

FINRA contemplates that the mid-case referral rule would typically be used in those circumstances where a hearing is scheduled for many days, or even weeks, and, in particular, where the hearing days are not scheduled consecutively. In the example above, if four hearing days were scheduled, but there was a significant time gap between scheduled hearing dates, then a delay in making a mid-case referral would not likely be appropriate. The proposed rule would encourage arbitrators to determine, based on their judgment and the facts and circumstances of the case, whether a mid-case or post-case referral is more appropriate.

FINRA believes that the criteria in proposed Rule 12104(b) would limit the use of the mid-case referral rule to only rare circumstances. While FINRA has lowered the threshold of certainty that arbitrators must have to make a mid-case referral, the referral must be based on evidence presented at a hearing, not information provided in the pleadings. Further, the evidence must support the arbitrators' belief that the threat is either ongoing or imminent, and likely to harm investors unless immediate action is taken. Although the proposed rule provides arbitrators with discretion to determine whether a delay in making a mid-case referral is appropriate, the arbitrators must determine as an initial matter whether the threat, as supported by the evidence, meets the criteria of the proposed rule. For these reasons, FINRA believes that arbitrators would rarely invoke the mid-case referral rule.

Rule 12104(c)—Arbitrator Disclosure and Arbitrator Recusal

If any arbitrator makes a mid-case referral under proposed Rule 12104(c), the Director will disclose to the parties the arbitrator's act of making such referral. The proposed rule also states that a party may request that referring arbitrators recuse themselves, as provided in the Codes. Under the proposal, if an arbitrator makes a mid-case referral, the arbitrator will notify the Director, who, in turn, will notify the parties.

Currently, under the Codes, any party may ask arbitrators to recuse themselves from the panel for good cause.[12] The arbitrators, who are the subject of the request, decide such requests.[13] FINRA believes that, in any case, a party should have the right to challenge an arbitrator's appearance on a panel. However, FINRA also believes that the arbitrator who is the subject of the challenge is best suited to assess the merits of a party's challenge and respond appropriately.

Thus, FINRA is proposing to change the requirement that the referring arbitrators withdraw from the panel upon a party's request, as provided in the original proposal. Rather, under the amended proposal, parties may make a recusal request of the referring arbitrators in the event of a mid-case referral. However, the referring arbitrators should honor such a request only if they conclude that they cannot serve impartially as a result of the act of making such a referral.

In cases with one arbitrator, if, after the arbitrator makes a mid-case referral, the parties submit a recusal request and the arbitrator honors it, the Director will appoint a replacement arbitrator as provided for in the Codes.[14] The arbitration case will begin anew with the replacement arbitrator. The parties may stipulate to facts, prior witness testimony, documents and other evidence provided during the initial case to educate the replacement arbitrator and expedite the subsequent case.[15] If the parties cannot agree or are unable to provide suggestions on how to educate the replacement arbitrator, the arbitrator will determine the best approach to commence the subsequent case including, but not limited to, reviewing transcripts from the initial case, listening to tapes from the initial case, or recalling witnesses. If the replacement arbitrator holds hearings in the subsequent case, the arbitrator will have the discretion in the award to determine which party or parties will pay the additional costs and expenses.[16] Further, in the award, the arbitrator will have discretion to order a party to reimburse another party for all or part of any filing fee paid.[17]

In a case involving three arbitrators, if any arbitrator honors a request for recusal, the Director will appoint a replacement arbitrator as provided for in the Codes, unless the parties agree in writing to proceed with only the remaining arbitrators.[18] If a replacement arbitrator is appointed in these cases, the parties may stipulate to facts, prior witness testimony, documents and other evidence provided during the initial case to educate the new arbitrator.[19] If the parties cannot agree or are unable to provide suggestions on how to educate the new arbitrator to proceed in the case, the panel, including the replacement arbitrator, will determine the best approach to educate the new arbitrator to proceed in the case including, but not limited to, reviewing transcripts from the initial case, listening to tapes from the initial case, or recalling witnesses. If the panel holds hearings after FINRA appoints a replacement arbitrator, the panel will have the discretion in the award to determine which party or parties will pay the additional costs and expenses.[20] Further, in the award, the panel will have discretion to order a party to reimburse another party for all or part of any filing fee paid.[21]

Rule 12104(d)—President's and Director's Authority

Proposed Rule 12104(d) would authorize the President or the Director to evaluate the arbitrator referral to determine whether it should be transmitted to other FINRA divisions, and limit this authority to the President or the Director.[22]

FINRA believes the proposed rule provides an added layer of protection for the investor by providing only the President or Director with the authority to determine whether to forward the mid-case referral to other FINRA divisions. This requirement would insulate the referring arbitrator from reaching the ultimate conclusion that there was the likelihood of imminent investor harm before making a mid-case referral, since that determination would reside with the President or the Director.

Rule 12104(e)—Post-Case Referral Provision

The rule language in current subparagraph (b) of the Rule 12104,

[12] Rule 12406 of the Customer Code and Rule 13409 of the Industry Code.

[13] *Id.*

[14] *See* Rule 12402(g) of the Customer Code and Rule 13411 of the Industry Code.

[15] *See* Rule 12105(a) of the Customer Code and Rule 13105(a) of the Industry Code.

[16] *See* Rule 12902(c) of the Customer Code and Rule 13902(c) of the Industry Code.

[17] *See* Rule 12900(d) of the Customer Code and Rule 13900(d) of the Industry Code.

[18] *See* Rules 12403(c)(6) and 12403(d)(6)–(8) of the Customer Code and Rule 13411 of the Industry Code.

[19] *Supra* note 15.

[20] *See* Rule 12902(c) of the Customer Code and Rule 13902(c) of the Industry Code.

[21] *See* Rule 12900(d) of the Customer Code and Rule 13900(d) of the Industry Code.

[22] The process for handling mid-case referrals would be similar to the Director's authority to remove an arbitrator after the first hearing or initial pre-hearing conference. Thus, the mechanism for such a review currently exists in the forum. *See* Rule 12408 of the Customer Code and Rule 13412 of the Industry Code.

which addresses arbitrator referrals made only at the conclusion of the case, would be amended and moved to new subparagraph (e).

The current rule states that ''only at the conclusion of an arbitration, any arbitrator may refer to FINRA for disciplinary investigation any matter that has come to the arbitrator's attention during and in connection with the arbitration, either from the record of the proceeding or from material or communications related to the arbitration, which the arbitrator has reason to believe may constitute a violation of NASD or FINRA rules, the federal securities laws, or other applicable rules or laws.''

The proposal would continue to permit arbitrators to make post-case referrals. However, FINRA would remove the term ''disciplinary'' to ensure that the scope of potential referrals is not limited to disciplinary findings, and would add the phrase ''or conduct,'' so that the subject-matter of Rule 12104 is consistent throughout the rule. The rule also would be amended to replace the reference to violations of ''NASD or FINRA rules'' with ''the rules of'' FINRA because the current FINRA rulebook consists of FINRA Rules, NASD Rules, and incorporated NYSE Rules.

Dispute Resolution would continue the current practice of forwarding all post-case arbitrator referrals to FINRA's regulatory divisions for review.

Conclusion

FINRA believes the proposal would strengthen its regulatory structure and provide an additional layer of protection to investors and the markets from fraudulent securities market schemes. In addition, FINRA believes the proposed rule change would provide it with a vital tool for detecting and addressing serious ongoing or imminent threats to the securities markets as early as possible.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[23] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to protect investors and the public interest because the proposal could help FINRA detect serious ongoing or imminent threats to the securities markets at an earlier stage, which could minimize the financial losses of investors as well as the effects these threats could have on the securities markets. Thus, the proposed rule change would strengthen FINRA's ability to carry out its regulatory mission and provide another layer of protection to investors and the markets against fraud.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in 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

On July 12, 2010, FINRA filed a proposal to amend Rules 12104 and 13104 of the Codes to permit arbitrators to make referrals during an arbitration case. The SEC published the proposal in the **Federal Register** on September 23, 2010.[24]

The original proposal would have provided arbitrators with express authority to alert the Director during the prehearing, discovery, or hearing phase of a case when they learned of what they believed to be fraudulent activity that required immediate action. The original proposal also would have required the Director to disclose the mid-case referral to the parties, and would have required the entire panel to withdraw upon a party's request that a referring arbitrator withdraw (hereinafter, ''new panel request''). The proposed disclosure and new panel request requirements reflected FINRA's concern about the perception of possible arbitrator bias against the party that is the subject of the referral, and about the ramifications such perception might have on any award rendered by the panel in place at the time of the referral. Therefore, FINRA included these requirements to minimize the chances of a court vacating an award on the grounds of arbitrator bias, which could further delay resolution of an investor's dispute.

The SEC received eleven comments, all of which opposed the proposal.[25] The commenters raised the following issues.

First, the commenters contend that the new panel request provision benefits the industry party, which would be the only party to be the subject of the referral, and which might routinely invoke the rule to remove unsympathetic arbitrators.[26] They also believe that the provision would help the industry parties conceal their alleged malfeasance, by allowing them, through a request for a new panel, to re-start the arbitration, hence, further delaying the outcome of the case.[27]

Second, several commenters raised the possibility that, under the original proposal, the initial panel's withdrawal could lead to a number of subsequent panel withdrawals involving the same parties, which would jeopardize further an investor's chances to recover lost assets.[28] They questioned how FINRA would administer a case if, after the initial panel's withdrawal, the second panel learned the same information and made the same referral.[29] They also expressed concern that the proposal does not limit the number of times the same parties would be subject to a panel withdrawal. If multiple withdrawals occurred, these commenters believe this result would further delay the resolution of an investor's case and would significantly increase their costs.[30]

Third, several commenters also argue that the costs that an investor would incur as a result of a new panel request are not mitigated adequately under the original proposal.[31] The commenters

[23] 15 U.S.C. 78*o*–3(b)(6).

[24] *See* Securities Exchange Act Rel. No. 62930 (Sept. 17, 2010), 75 FR 58007 (Sept. 23, 2010) (SR–FINRA–2010–036).

[25] The SEC received comments on Notice of Filing of Proposed Rule Change to Amend the Codes of Arbitration Procedure to Permit Arbitrators to Make Mid-case Referrals from Barry D. Estell, Attorney at Law, Oct. 11, 2010 (''Estell Comment''); Richard A. Stephens, *Esq.,* Attorney and FINRA Chairman, Oct. 11, 2010 (''Stephens Comment''); Theodore M. Davis, Esq., Law Office of Theodore M. Davis, Oct. 11, 2010 (''Davis Comment''); Richard M. Layne, Law Office of Richard M. Layne, Oct. 11, 2010 (''Layne Comment''); Scott R. Shewan, President, Public Investors Arbitration Bar Association (''PIABA Comment''); Leonard Steiner, Steiner & Libo P.C., Oct. 11, 2010 (''Steiner Comment''); Dale Ledbetter, Ledbetter & Associates, P.A., Oct. 13, 2010 (''Ledbetter Comment''); William A. Jacobson, *Esq.,* Associate Clinical Professor and Director, and Meghan Tente, Cornell Securities Law Clinic, Oct. 14, 2010 (''Cornell Comment''); Rob Bleecher, Esquire, Pecht Associates, P.C., Oct. 14, 2010 (''Bleecher Comment''); Joelle B. Franc and Gary J. Pieples, Syracuse Securities and Consumer Law Clinic, Syracuse University College of Law, Oct. 19, 2010 (''Syracuse Comment''); and Richard P. Ryder, Esquire, Securities Arbitration Commentator, Inc., Jan. 16, 2011 (''Ryder Comment'').

[26] *Id.*

[27] Estell Comment, Layne Comment, PIABA Comment, Bleecher Comment, and Stephens Comment.

[28] Estell Comment, Layne Comment, PIABA Comment, and Bleecher Comment.

[29] *Id.*

[30] *Id.*

[31] Estell Comment, Layne Comment, PIABA Comment, Bleecher Comment, and Syracuse Comment.

contend that the original proposal underestimates the costs that investors would incur if the panel withdraws mid-case.[32] In support of their contention, they cite examples of some of the additional costs investors would incur (*e.g.,* paying expenses for experts to testify at a second hearing, or paying to transcribe the record of the prior hearings) if a party requests a new panel.[33] They believe the additional costs in time and money would be substantial and would not be covered by waiving the fees for any hearing sessions conducted prior to the referral.[34]

Fourth, several commenters contend that the new panel request provision would create a disincentive for arbitrators to make a mid-case referral, because to do so would result in their likely removal from the case.[35]

Finally, several commenters noted that it would be unlikely that arbitrators would learn of a serious, ongoing, or imminent threat during the discovery phase of a case because the type of evidence needed to support a mid-case referral is not typically provided during discovery.[36] According to these commenters, arbitrators generally do not receive information or evidence during the discovery phase of a case.[37] Therefore, the rules would impact only arbitrations in which hearings have begun.[38]

Several commenters supported FINRA's efforts to enhance enforcement to thwart ongoing frauds and thus supported the concept of FINRA amending its rules to broaden arbitrators' authority to make mid-case referrals.[39] In their comments, they indicated or implied that if the proposal did not contain the new panel request provision, they could support the proposal.[40] These commenters questioned FINRA's concern that arbitrators may be perceived as biased once an arbitrator makes a mid-case referral, and that this bias could be grounds to vacate an award rendered by the panel in place at the time of the referral. Several[41] commenters cited relevant case law, which supports the view that arbitrators are permitted to form opinions based on the evidence presented to them after they are appointed, and an award would not be vacated because arbitrators developed their views prior to the conclusion of the proceedings.[42]

FINRA agrees that the new panel request provision may have the unintended consequences of providing parties who would be the subject of the referral with a tool to delay the outcome of an arbitration, increase significantly claimants' costs, and create a disincentive for arbitrators to make mid-case referrals. As these potential effects were not FINRA's intent, FINRA is proposing to replace the original proposal in its entirety with the amended proposal, which would remove the new panel request provision and establish new referral criteria to reduce the potential for a finding of arbitrator bias should an arbitrator make a mid-case referral.

The amended proposal would retain the requirement that the Director notify parties of a mid-case referral, but would eliminate the new panel request. By removing the new panel request mechanism, the amended proposal could reduce the possibility that an entire panel would be removed from an arbitration case before it has concluded. Thus, it is less likely that the case would have to start over again if an arbitrator makes a mid-case referral.[43] Therefore, the customer would be less likely to experience procedural disadvantages, significant delays, and increased costs of starting the arbitration anew.

In place of the new panel request, FINRA would permit the parties to request that the referring arbitrators recuse themselves. As the Codes currently provide, any party may ask arbitrators to recuse themselves from the panel for good cause, and the arbitrators, who are the subject of the request, decide such requests. [44] FINRA believes this element of the amended proposal would provide those parties, who believe the referring arbitrators are biased by making a mid-case referral, with the opportunity to challenge the arbitrators' neutrality. However, unlike the original proposal, the arbitrators would not be required to withdraw from the case.[45]

Even though case law supports the view that arbitrators are permitted to form opinions based on the evidence presented to them after they are appointed, FINRA is proposing new criteria in its amended proposal to minimize the potential for a finding of arbitrator bias in the event of a mid-case referral. First, FINRA would lower the proposed threshold of certainty to require that the arbitrators believe that there is an indication of an ongoing or imminent threat that requires immediate action, rather than conclude that there is a fraud, as the original proposal would have required.

Second, the proposed rules would limit a mid-case referral to information learned during a hearing. FINRA agrees with the commenters that a mid-case referral should be based on information learned during a hearing, so that the referral would be based on evidence presented by the parties. As case law suggests, arbitrators are permitted, indeed even expected, to form opinions based on the evidence presented to them after they are appointed, and such an expression of those views would not be considered proof of bias.[46]

Third, the amended proposal would provide only the President or Director with the authority to determine whether to forward a mid-case referral to other FINRA divisions. This requirement would insulate the referring arbitrator from having to conclude definitively that there was ongoing or imminent investor harm before making a mid-case referral.

Last, the amended proposal would add new language urging arbitrators to weigh the need to make a referral immediately, rather than waiting until the case is over, when an arbitration case is close to completion. FINRA believes providing arbitrators with express discretion to consider the timing of the mid-case referral and the stage of the arbitration proceeding would minimize the impact of the proposal on those customers whose hearings are almost completed.

FINRA believes these modifications would address concerns raised by comments filed with the SEC in response to the original proposal and minimize the potential burdens on investor-claimants, while still achieving its regulatory goals.

[32] *Id.*

[33] *Id.*

[34] *Id.*

[35] Ledbetter Comment, Stephens Comment and Ryder Comment.

[36] Estell Comment, Layne Comment, PIABA Comment, and Bleecher Comment.

[37] *Id.*

[38] *Id.*

[39] Stephens Comment, Steiner Comment, Ledbetter Comment, and Cornell Comment.

[40] *Id.*

[41] Stephens Comment, Ledbetter Comment, and Davis Comment. The Davis Comment opposes the proposal.

[42] *See, e.g., Spector* v. *Torenberg,* 852 F. Supp. 201, 209 (S.D.N.Y. 1994) (citing *Ballantine Books Inc.,* 302 F.2d at 21).

[43] Accordingly, the fee waiver provisions that would have compensated a claimant for hearings conducted prior to the referral in the original proposal are no longer warranted, and have not been included in the amended proposal.

[44] *Supra* note 12.

[45] An arbitrator is not precluded from developing views regarding the merits of a dispute early in the proceedings, and an award will not be vacated because he expresses those views. *Ballantine Books Inc.,* 302 F.2d at 21.

[46] *Health Services Management Corp.* v. *Hughes,* 975 F.2d 1253, 1267 (7th Cir. 1992).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2010–036 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–FINRA–2010–036. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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–FINRA–2010–036 and should be submitted on or before August 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19193 Filed 7–28–11; 8:45 am]

BILLING CODE 8011–01–P

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64956; File No. SR–NASDAQ–2011–073]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Adopt Additional Listing Requirements for Reverse Mergers

July 25, 2011.

On May 26, 2011, The NASDAQ Stock Market LLC (''Nasdaq'') 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 adopt additional listing requirements for reverse mergers. The proposed rule change was published for comment in the **Federal Register** on June 14, 2011.[3] The Commission received no comments on the proposal.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is July 29, 2011.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period to take action on the proposed rule change so that it has sufficient time to consider the Exchange's proposal, which would establish additional listing requirements for reverse merger companies, whereby an operating company becomes public by combining with a public shell.

Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates September 12, 2011 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR–NASDAQ–2011–073).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19231 Filed 7–28–11; 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. 64633 (June 8, 2011), 76 FR 34781.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64957; File No. SR–BATS–2011–023]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BATS Rules in Connection With the Elimination of a Directed Order Program for BATS Options

July 25, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 22, 2011, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 21.1, entitled ''Definitions,'' to remove two order types, Market Maker Price Improving Orders and Directed Orders, from the types of approved order types offered by the BATS options market (''BATS Options''). Through this amendment, the Exchange is eliminating its recently approved rules related to the establishment of a directed order program on a pilot basis for BATS Options.[5]

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 Exchange recently received approval to operate a directed order program for BATS Options on a pilot basis.[6] The BATS Options directed order program would allow members of BATS Options (''Options Members'') to direct an order to a particular BATS Options Market Maker for potential execution at a price improved over the existing National Best Bid (''NBB'') or National Best Offer (''NBO''). The goal of the directed order program was to create a competitive structure to enhance aggressive quoting and shift economics associated with non-transparent payment for order flow arrangements to better execution prices for customer orders on the Exchange. While pending, the proposal to operate a directed order program received several comments from competitors of the Exchange and other market participants, some of which raised concerns that the directed order program may foster internalization and a widening of quoted spreads.[7] During this time period, the Exchange also discussed the proposal with several Options Members, and the Exchange has continued these discussions following the approval of the proposal. While the Exchange continues to believe that the proposal is consistent with the Act and contains appropriate requirements to incent competitive quotations and further the public price discovery process, based on on-going discussions with Options Members, the Exchange believes there is sufficient reason to withdraw the directed order program and continue analyzing potential refinements that may better achieve the Exchange's goal. The Exchange notes that it has not yet implemented the directed order program.

Based on the foregoing, the Exchange proposes to eliminate the definitions for Market Maker Price Improving Orders and Directed Orders from the types of approved order types offered by the BATS Options pursuant to Rule 21.1.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[9] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes that elimination of the directed order program will provide the Exchange and the options industry as a whole with additional time to evaluate the potential benefits of a program such as the directed order program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on 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:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because the Exchange would like additional time to consider potential refinements to the directed

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Securities Exchange Act Release No. 64781 (June 30, 2011), 76 FR 39953 (July 7, 2011) (SR–BATS–2011–023).

[6] *Id.*

[7] *See e.g.,* Letters to Elizabeth M. Murphy, Secretary, Commission, from Thomas F. Price, Managing Director, Securities Industry and Financial Markets Association, dated June 30, 2011; Christopher Nagy, Managing Director Order Strategy, TD Ameritrade, dated June 30, 2011; Jennifer M. Lamie, Assistant General Counsel, Legal Division, Chicago Board Options Exchange, dated June 29, 2011; Tom Wittman, The NASDAQ OMX PHLX, Inc. and The NASDAQ Options Market, dated June 24, 2011; Janet L. McGinness, SVP & Corporate Secretary, Legal & Government Affairs, NYSE Euronext, dated June 17, 2011; Michael J. Simon, Secretary, International Securities Exchange, LLC, dated June 17, 2011; Anthony D. McCormick, Chief Executive Officer, BOX Options Exchange Group, LLC, dated June 13, 2011; John C. Nagel, Managing Director and General Counsel, Asset Management and Markets, Citadel LLC, dated April 25, 2011; Andrew Stevens, Legal Counsel, IMC Chicago, LLC d/b/a IMC Financial Markets, dated April 21, 2011. The Exchange also notes that other options exchanges filed with the Commission a joint petition related to the directed order program following the approval of the directed order program.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to 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. BATS is deemed to have satisfied this requirement.

order program and the directed order program has not been implemented.[12] Therefore, the Commission designates the proposal operative upon filing.

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–BATS–2011–023 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–BATS–2011–023. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2011–023 and should be submitted on or before August 19, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19236 Filed 7–28–11; 8:45 am]

BILLING CODE 8011–01–P

[12] 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64955; File No. SR–FICC–2011–05]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Rules Regarding the GCF Repo Service To Adopt Changes Recommended by the Tri-Party Repo Infrastructure Reform Task Force

July 25, 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 July 12, 2011, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by FICC. 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 purpose of the proposed rule change is to amend the rules regarding the GCF Repo service to adopt changes recommended by the Tri-Party Repo Infrastructure Reform Task Force (''TPR''). Because the GCF Repo service operates as a tri-party mechanism, FICC has been requested to incorporate changes to the GCF Repo service to align the service with the other changes recommended by the TPR for the overall tri-party repo market.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(i) FICC is proposing to make certain changes to its GCF Repo®[4] service in order to comply with the recommendations made by the TPR, an industry group formed and sponsored by the Federal Reserve Bank of New York.[5] Because the GCF Repo service operates as a tri-party repo mechanism, FICC has been requested to incorporate changes to the GCF Repo service to align the service with the other TPR recommended changes for the overall tri-party repo market.

FICC is proposing to initially implement the changes described herein in a pilot program (''Pilot Program''). FICC proposes to run the Pilot Program for one year starting from the date on which the Commission approves this proposed rule change filing. If FICC decides to extend the Pilot Program or to implement the changes in the Pilot Program permanently, FICC shall submit a proposed rule change filing to the Commission for that purpose.

Background: Description of the GCF Repo Service and History

(1) Creation of the GCF Repo Service

The GCF Repo service allows GSD dealer members to trade general

[3] The Commission has modified the text of the summaries prepared by FICC.

[4] GCF Repo is a registered trademark of FICC/DTCC.

[5] The main purpose of the TPR is to develop recommendations to address the risk presented by tri-party repo transactions due to the current morning reversal or ''unwind'' process and to move to a process by which tri-party repo transactions are collateralized all day. Currently, tri-party repo transactions unwind in the morning between 7 and 8 a.m. EST. The GSD Schedule of GCF Timeframes provides that the unwind of GCF Repo transactions (both overnight and term) must be accomplished by 7:30 a.m. The TPR has mandated that the collateral used in tri-party repo and GCF Repo transactions be ''locked up'' until 3:30 p.m. EST. This would serve to reduce the intraday exposure to the dealers that the clearing banks currently face with the start of daily unwind.

collateral repos[6] throughout the day without requiring intra-day, trade-for-trade settlement on a delivery-versus-payment (DVP) basis. The service allows the dealers to trade such general collateral repos, based on rate and term, throughout the day with inter-dealer broker netting members on a blind basis. Standardized, generic CUSIP numbers have been established exclusively for GCF Repo processing and are used to specify the acceptable type of underlying Fedwire book-entry eligible collateral, which includes Treasuries, Agencies and certain mortgage-backed securities.[7]

The GCF Repo service was developed as part of a collaborative effort among the Government Securities Clearing Corporation (''GSCC'') (FICC's predecessor), its two clearing banks (The Bank of New York Mellon (''BNY'') and JPMorgan Chase Bank, National Association (''Chase'')), and industry representatives. GSCC introduced the GCF Repo service on an intra-clearing bank basis in 1998.[8] Under the intrabank service, dealers could only engage in GCF Repo transactions with other dealers that cleared at the same clearing bank.

(2) Creation of the Interbank Version of the GCF Repo Service

In 1999, GSCC expanded the GCF Repo service to permit dealer participants to engage in GCF Repo trading on an interbank basis, meaning that dealers using different clearing banks could enter into GCF Repo transactions (on a blind brokered basis).[9] Because dealer members that participate in the GCF Repo service do not all clear at the same clearing bank, introducing the service as an interbank service necessitated the establishment of a mechanism to permit after-hours movements of securities between the two clearing banks to deal with the fact that GSCC would likely have unbalanced net GCF securities and cash positions within each clearing bank (that is, it is likely that at the end of GCF Repo processing each business day, the dealers in one clearing bank will be net funds borrowers, while the dealers at the other clearing bank will be net funds lenders). To address this issue, GSCC and its clearing banks established, and the Commission approved, a legal mechanism by which securities would ''move'' across the clearing banks without the use of the Fedwire Securities Service (''Fedwire Securities'').[10] (Movements of cash do not present the same issue because the Fedwire Funds Service (''Fedwire Funds'') is open later than Fedwire Securities). Therefore, at the end of the day, after the GCF net results are produced, securities are pledged via a tri-party-like mechanism and the interbank cash component is moved via Fedwire Funds. In the morning, the pledges are unwound, that is, funds are returned to the net funds lenders and securities are returned to the net funds borrowers.

The following simplified example illustrates the manner in which the GCF Repo services works on an interbank basis:

Assume that Dealer B clears at BNY and Dealer C clears at Chase. Further assume that: (i) Outside of FICC, Dealer B engages in a tri-party repo transaction with Party X to obtain funds and seeks to invest such funds via a GCF Repo transaction; (ii) outside of FICC, Dealer C engages in a DVP repo transaction with Party Y to buy securities and seeks to finance these securities via a GCF Repo transaction; and (iii) Dealer B and Dealer C enter into a GCF Repo transaction (on a blind basis via a GCF Repo broker) and submit the trade details to FICC.

At the end of ''Day 1,'' GCF Repo collateral must be allocated, *i.e.,* Dealer B must receive the securities. However, the securities that Dealer B is to receive are at Chase and Fedwire Securities is closed. The after-hours movement mechanism permits the securities to be ''sent'' to Dealer B as follows: FICC will instruct Chase to allocate to a special FICC clearance account at Chase securities in an amount equal to the net short securities position.

FICC has established on its own books and records two ''securities accounts'' as defined in Article 8 of the New York Uniform Commercial Code, one in the name of Chase (''FICC Account for Chase'') and one in the name of BNY (''FICC Account for BNY''). The FICC Account for Chase is comprised of the securities in FICC's special clearance account maintained by BNY (''FICC Special Clearance Account at BNY for Chase''), and the FICC Account for BNY is comprised of the securities in FICC's special clearance account maintained by Chase (''FICC Special Clearance Account at Chase for BNY'').[11] The establishment of these securities accounts by FICC in the name of the clearing banks enables the clearing bank that is in the net long securities position to ''receive'' securities by pledge after the close of Fedwire Securities. Once the clearing bank has ''received'' the securities by pledge, it can credit them by book-entry to a FICC GCF Repo account at that clearing bank and then to the dealers that clear at that bank that are net long the securities in connection with GCF Repo trades.

In the example, Chase, as agent for FICC, will transmit to BNY a description of the securities in the FICC Special Clearance Account at Chase for BNY. Based on this description, BNY will transfer funds equal to the funds borrowed position to the FICC GCF Repo account at Chase. Upon receipt of the funds by Chase, Chase will release any liens it may have on the FICC Special Clearance Account at Chase for BNY, and FICC will release any liens it may have on the FICC Account for BNY (both of these accounts being comprised of the same securities). BNY will credit the securities in the FICC Account for BNY to FICC's GCF Repo account at BNY, and BNY will further credit these securities to Dealer B, who, as noted, is in a net long securities position. In the morning of ''Day 2,'' all securities and funds movements occurring on Day 1 are reversed (''unwind'').

(3) Issues With Morning Unwind Process

In 2003, FICC shifted the GCF Repo service back to intrabank status only.[12] By that time, the service had grown significantly in participation and volume. However, with the increase in use of the interbank service, certain payments systems risk issues arose from the inter-bank funds settlements related to the service, namely, the large interbank funds movement in the morning. FICC shifted the service back to intrabank status to enable management to study the issues presented and identify a satisfactory solution for bringing the service back to interbank status.

(4) The NFE Filing and Restoration of Service to Interbank Status

In 2007, FICC submitted to the Commission a proposed rule change to

[6] A general collateral repo is a repo in which the underlying securities collateral is nonspecific, general collateral whose identification is at the option of the seller. This is in contrast to a specific collateral repo.

[7] In 2009, the Commission approved FICC rule filing 2009–04 to add debt securities issued under the Debt Guaranty Program component of the Federal Deposit Insurance Corporation's (the ''FDIC's'') Temporary Liquidity Guarantee Program (the ''TLGP'') to the GCF Repo service. *See* Securities Exchange Act Release No. 34–58696 (September, 30, 2008), 73 FR 58698 (October 7, 2008). The TLGP, one of the steps taken by the U.S. Government to stabilize the credit markets and stimulate lending, was designed to allow banks to issue FDIC-insured debt, ensuring that the banks would be able to roll over any debt coming due in the coming months. The guarantee consists of timely payment of principal and interest. The expiration of the FDIC's guarantee is the earlier of either the maturity date of the issued debt or June 2012.

[8] *See* Securities Exchange Act Release No. 34–40623 (October 30, 2008), 69 FR 59831 (November 5, 1998).

[9] *See* Securities Exchange Act Release No. 34–41303 (April 16, 1999), 64 FR 20346 (April 26, 1999).

[10] *See* Securities Exchange Act Release No. 34–41303 (April 16, 1999), 64 FR 20346 (April 26, 1999) for a detailed description of the clearing bank and FICC accounts needed to effect the after-hour movement of securities.

[11] FICC has appointed Chase as its agent to maintain FICC's books and records with respect to the BNY securities account, and FICC has appointed BNY as its agent to maintain FICC's books and records with respect to the Chase securities account.

[12] *See* Securities Exchange Act Release No. 34–48006 (June 10, 2003), 68 FR 35745 (June 16, 2003).

address the issues raised by the interbank morning funds movement and return the GCF Repo service to interbank status (''2007 NFE Filing'').[13] The 2007 NFE Filing addressed these issues by using a hold against a dealer's ''net free equity'' (''NFE'') at the clearing bank to collateralize its GCF Repo cash obligation to FICC on an intraday basis.[14]

The 2007 NFE Filing replaced the Day 2 morning unwind process with an alternate process, which is currently in effect. Specifically, in lieu of making funds payments, the interbank dealers grant to FICC a security interest in their NFE-related collateral equal to their prorated share of the total interbank funds amount. FICC, in turn, grants to the other clearing bank (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at the clearing bank. The debit in the FICC account (''Interbank Cash Amount Debit'') occurs because the dealers who are due to receive funds in the morning must receive those funds at that time in return for their release of collateral. The debit in the FICC account at the clearing bank gets satisfied during the end of day GCF Repo settlement process. Specifically, that day's new activity yields a new interbank funds amount that will move at end of day—however, this amount gets netted with the amount that would have been due in the morning, thus further reducing the interbank funds movement. The NFE holds are released when the interbank funds movement is made at end of day. The 2007 NFE Filing did not involve any changes to the after-hours movement of securities occurring at the end of the day on Day 1.

Using the example above:

On the morning of Day 2, Dealer C who needs to return funds in the unwind, instead of returning the funds in the morning, grants to FICC a security interest in Dealer C's NFE-related collateral equal to its funds movement (it is assumed only one GCF Repo transaction took place in this simplified example). FICC, in turn, grants BNY (that was due to receive the funds) a security interest in the NFE-related collateral to support the debit in the FICC account at BNY. As noted above, the debit in FICC's account at BNY arises because, under the current processing, Dealer B must receive its funds during the morning unwind. The FICC debit is then satisfied during the end of day GCF Repo settlement process.

As part of the 2007 NFE Filing, FICC imposed certain additional risk management measures with respect to the GCF Repo service. First, FICC imposed a collateral premium (''GCF Premium Charge'') on the GCF Repo portion of the Clearing Fund deposits of all GCF participants to further protect FICC in the event of an intra-day default of a GCF Repo participant. FICC requires GCF Repo participants to submit a quarterly ''snapshot'' of their holdings by asset type to enable risk management staff to determine the appropriate Clearing Fund premium. As with all other instances of late submissions of required information, members who do not submit this required information by the deadlines established by FICC are subject to a fine and an increased Clearing Fund premium.

Second, the 2007 NFE Filing addressed the situation where FICC becomes concerned about the volume of interbank GCF Repo activity. Such a concern might arise, for example, if market events were to cause dealers to turn to the GCF Repo service for increased funding at levels beyond normal processing. The 2007 NFE Filing provides FICC with the discretion to institute risk mitigation and appropriate disincentive measures in order to bring GCF Repo levels to a comfortable level from a risk management perspective.[15]

Proposed Changes to the GCF Repo Service To Implement the TPR's Recommendations

FICC is proposing the following rule changes with respect to the GCF Repo service to address the TPR's Recommendations:

(1) (a) To move the Day 2 unwind from 7:30 a.m. to 3:30 p.m.; (b) to move the NFE process[16] from morning to a time established by FICC as announced by notice to all members;[17] (c) to move the cut-off time of GCF Repo submissions from 3:35 p.m. to 3 p.m.; and (d) to move the cut-off time for dealer affirmation or disaffirmation from 3:45 p.m. to 3 p.m.; and

(2) To establish rules for intraday GCF Repo collateral substitutions.[18]

(1) Proposed Change Regarding the Morning Unwind and Related Rule Changes

The TPR has recommended that the Day 2 unwind for all tri-party transactions are moved from the morning to 3:30 p.m. The TPR has made this recommendation in order to reduce the clearing banks' intraday exposure to the dealers. As previously stated, because the GCF Repo service is essentially a tri-party repo mechanism, FICC has also been requested by the TPR to accommodate this time change. For the GSD rules, this necessitates a change to the GSD's ''Schedule of GCF Timeframes'' (''Schedule''). Specifically, the 7:30 a.m. time in the Schedule will be deleted and the language therein proposed to be moved to a new time of 3:30 p.m. on the Schedule.

The change to the time of the intrabank unwind also necessitates a change to the cut-off time for GCF Repo trade submissions, which is currently 3:35 p.m. in the Schedule. FICC is proposing to amend the Schedule to change the cut-off time to 3 p.m. to allow FICC to submit files to the clearing banks which, in turn, will provide files to the dealers by 3:30 p.m.; this will permit the dealers to have a complete picture of their positions as the unwind occurs at 3:30 p.m. The 3:45 p.m. cutoff for dealer affirmation or disaffirmation that is in the current Schedule will move to 3 p.m. so that the new 3 p.m. cutoff for submissions will also now be the cutoff for dealer affirmations and disaffirmations.[19]

Because the Day 2 unwind is proposed to move from the morning to 3:30 p.m. and because the NFE process established by the 2007 NFE Filing is tied to the moment of the interbank unwind, the NFE process will also move

[13] See Securities Exchange Act Release No. 34–57652 (April 11, 2008), 73 FR 20999 (April 17, 2008).

[14] NFE is a methodology that clearing banks use to determine whether an account holder (such as a dealer) has sufficient collateral to enter into a specific transaction. NFE allows the clearing bank to place a limit on its customer's activity by calculating a value on the customer's balances at the bank. Bank customers have the ability to monitor their NFE balance throughout the day.

[15] Specifically, the 2007 NFE Filing introduced the term ''GCF Repo Event,'' which will be declared by FICC if either of the following occurs: (i) The GCF interbank funds amount exceeds five times the average interbank funds amount over the previous ninety days for three consecutive days; or (ii) the GCF interbank funds amount exceeds fifty percent of the amount of GCF Repo collateral pledged for three consecutive days. FICC reviews these figures on a semi-annual basis to determine whether they remain adequate. FICC also has the right to declare a GCF Repo Event in any other circumstances where it is concerned about GCF Repo volumes and believes it is necessary to declare a GCF Repo Event in order to protect itself and its members. FICC will inform its members about the declaration of the GCF Repo Event via important notice. FICC will also inform the Commission about the declaration of the GCF Repo Event.

[16] No other changes are being proposed to the NFE process that was in place by the 2007 NFE Filing; the risk management measures that were put in place by the 2007 NFE Filing remain in place with the present proposal.

[17] The time range initially will be between 8 a.m. and 1 p.m.

[18] It should be noted that for interbank GCF Repo transactions, the substitution process will initially only permit cash substitutions, as discussed in more detail below.

[19] This change updates the current Schedule to provide that the cutoff for submissions and dealer affirmations/disaffirmations is at the same time; the current practice is inconsistent with the current Schedule and the proposed rule change would remedy this inconsistency.

to the time established by FICC as announced by notice to all members. This range will be between 8 a.m. and 1 p.m. Because the NFE process is a legal process and not an operational process, it is not reflected on the Schedule. A change is needed in Section 3 of Rule 20 to delete the reference to the ''morning'' timeframe on Day 2 with respect to the NFE process and to add language referencing ''at the time established by the Corporation.''

(2) Proposed Change Regarding Intraday GCF Repo Securities Collateral Substitutions

As a result of the time change of the unwind (*i.e.,* the reversal on Day 2 of collateral allocations established by FICC for each netting member's GCF net funds borrower positions and GCF net funds lender positions on Day 1) to 3:30 p.m., the provider of GCF Repo securities collateral in a GCF Repo transaction on Day 1 will no longer have access to such securities at the beginning of Day 2. Therefore, during Day 2 prior to the unwind of the Day 1 collateral allocations, the provider of GCF Repo securities collateral (Dealer C, in the example) needs a substitution mechanism for the return of its posted GCF Repo securities collateral in order to make securities deliveries for utilization of such securities in its business activities. (In the example, Dealer C may need to return the securities to Party Y depending upon the terms of their transaction). FICC is proposing to establish a substitution process for this purpose in conjunction with its clearing banks. The language for the substitution mechanism is proposed to be added to Section 3 of GSD Rule 20. The proposed rule change provides that all requests for substitution for the GCF Repo securities collateral must be submitted by the provider of the GCF Repo securities collateral (*i.e.,* Dealer C) by the applicable deadline on Day 2 (the ''substitution deadline'').[20]

Substitutions on Intrabank GCF Repos

If the GCF Repo transaction is between dealer counterparties effecting the transaction through the same clearing bank (*i.e.,* on an intra-clearing bank basis and in our example Dealer C and other dealers clearing at Chase), on Day 2 such clearing bank will process each substitution request of the provider of GCF Repo securities collateral (*i.e.,* Dealer C) submitted prior to the substitution deadline promptly upon receipt of such request. The return of the GCF Repo securities collateral in exchange for cash and/or eligible securities of equivalent value can be effected by simple debits and credits to the accounts of the GCF Repo dealer counterparties at the clearing agent bank (*i.e.,* in the example, Chase). Eligible securities for this purpose will be the same as those currently permitted under the GSD rules for collateral allocations, namely, Comparable Securities,[21] (ii) Other Acceptable Securities,[22] or (iii) U.S. Treasury bills, notes or bonds maturing in a time frame no greater than that of the securities that have been traded (except where such traded securities are U.S. Treasury bills, substitution may be with Comparable Securities and/or cash only).

Substitutions on Interbank GCF Repos

For a GCF Repo that was processed on an interbank basis and to accommodate a potential substitution request, FICC proposes to initiate a debit of the securities in the account of the lender through the FICC GCF Repo accounts at the clearing bank of the lender and the FICC GCF Repo account at the clearing bank of the borrower (''Interbank Movement''). This Interbank Movement is being done so that a borrower who elects to substitute collateral will have access to the collateral for which it is substituting. The Interbank Movement is expected to occur in the morning, though the clearing banks and FICC have the capability to have the Interbank Movement occur at any point during the day up until 2:30 p.m. The agreed upon final timeframe will be determined as between FICC and the clearing banks prior to the implementation date of the Pilot Program. During the Pilot Program, FICC and the clearing banks will unwind the intrabank GCF Repo transactions at 3:30 p.m. FICC and the clearing banks will determine the most appropriate timeframe for the Interbank Movement process to occur.

In the example above, the GCF Repo securities collateral will be debited from the securities account of the receiver of the collateral (*i.e.,* Dealer B) at its clearing bank (*i.e.,* BNY), and from the FICC Account for BNY. If a substitution request is received by the clearing bank (*i.e.,* Chase) of the provider of GCF Repo securities collateral, prior to the substitution deadline at a time specified in FICC's procedures,[23] that clearing bank will process the substitution request by releasing the GCF Repo securities collateral from the FICC GCF Repo account at Chase and crediting it to the account of the provider of GCF Repo securities collateral (*i.e.,* Dealer C). All cash substituted for the GCF Repo securities collateral being released will be credited to FICC's GCF Repo account at the clearing bank (*i.e.,* Chase).

Simultaneously, with the debit of the GCF Repo securities collateral from the account at the clearing bank (*i.e.,* BNY) of the original receiver of GCF Repo securities collateral (*i.e.,* Dealer B), for purposes of making payment to the original receiver of securities collateral (*i.e.,* Dealer B), such clearing bank will effect a cash debit equal to the value of the securities collateral in FICC's GCF Repo account at such clearing bank and will credit the account of the original receiver of securities collateral (*i.e.,* Dealer B) at such clearing bank with such cash amount. (This is because when Dealer B is debited the securities, Dealer B must receive the funds.) In order to secure FICC's obligation to repay the balance in FICC's GCF Repo account at such clearing bank (*i.e.,* BNY), FICC will grant to such clearing bank a security interest in the cash substituted for the GCF securities collateral in FICC's GCF repo account at the other clearing bank (*i.e.,* Chase).

Using the example from above, assume the Dealer C submits a substitution notification—it requires the securities collateral that has been pledged to Dealer B and will substitute

[20] FICC will establish such deadline prior to the implementation of the changes to this service in conjunction with the clearing banks and the Federal Reserve in light of market circumstances. The initial substitution deadline is anticipated to be 1 p.m.; however, this will be finalized with the Federal Reserve and the clearing banks. The time range will be between 8 a.m. and 1 p.m. FICC will provide members advanced notice of the substitution deadline and any future changes thereto by important notice.

[21] The GSD rules define ''Comparable Securities'' as follows: The term ''Comparable Securities'' means, with respect to a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number.

[22] The GSD rules define ''Other Acceptable Securities'' as follows: The term ''Other Acceptable Securities'' means, with respect to: (An) adjustable-rate mortgage-backed security or securities issued by Ginnie Mae, any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (an) adjustable-rate mortgage-backed security or securities issued by either Fannie Mae or Freddie Mac: (a) Any fixed-rate mortgage-backed security or securities issued by Fannie Mae and Freddie Mac, (b) any fixed-rate mortgage-backed security or securities issued by Ginnie Mae, or (c) any adjustable-rate mortgage-backed security or securities issued by Ginnie Mae.

[23] This timeframe will also be established in consultation with the clearing banks and the Federal Reserve. The parties are considering whether to have the substitution process be accomplished in two batches during the day depending upon the time of submission of the notifications for substitution. In any event, substitution requests will be subject to the substitution deadline. The details of the batches, if applied, will be announced to members by important notice. The deadline for submission of GCF Repo substitution requests will be the same for intrabank and interbank processing.

cash. BNY will debit the securities from Dealer B's account and the relevant liens will be released so that the securities are in FICC's account at Chase. Chase will credit the securities to Dealer C's account and the cash that Dealer C uses for its collateral substitution will be credited by Chase to FICC's account at Chase. From Dealer B's perspective, when BNY debits the securities from Dealer B's account, Dealer B is supposed to receive the funds—but as noted, the funds are at Chase. BNY will credit the funds to Dealer B's account and debit FICC's account at BNY.

At this point in the example, FICC is running a credit at Chase and a debit at BNY. In order to secure FICC's debit at BNY, FICC will grant a security interest in the funds in the FICC account at Chase.

For substitutions that occur with respect to GCF Repo transactions that were processed on an inter-clearing bank basis, FICC and the clearing banks will initially only permit cash substitutions in order to accommodate current processing systems. In the future, as systems are upgraded, FICC may permit securities substitutions in the same way as described above for GCF Repo transactions occurring on the intra-clearing bank basis. The proposed rule change provides FICC with flexibility in this regard by referring to FICC's procedures. If interbank securities substitutions begin to be permitted, FICC will announce this to members by important notice.

Other Rule Changes

FICC is also proposing to make technical clean-up changes to Section 7 of GSD Rule 20, which relate to the GCF Repo collateral process. Specifically, a correction is being made to change references to the defined term ''Security'' to ''security'' to conform to the use of ''security'' throughout the rule. The proposed rule change also introduces a term that previously had not been included in the rules inadvertently, ''GCF Collateral Excess Account.'' This term is defined in the proposed rule change as ''the account established by a GCF Custodian Bank in the name of the Corporation to hold securities it credits to the GCF Securities Account the Corporation establishes for another GCF Clearing Bank.''

(ii) FICC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act[24] and the rules and regulations thereunder applicable to FICC because the rule amendments are designed to promote the prompt and accurate clearance and settlement of security transactions and assure the safeguarding of securities and funds which are in the custody or control of FICC by aligning the GCF Repo service with recommendations being made by the TPR to address risks in the overall tri-party repo market, which will serve to safeguard the securities and funds for which FICC is responsible. The proposed rule change is not inconsistent with the existing rules of FICC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) As the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) By order approve or disapprove the proposed rule change or (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or

Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FICC–2011–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FICC–2011–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.dtcc.com/downloads/legal/rule_filings/2011/ficc/2011-05.pdf.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FICC–2011–05 and should be submitted on or before August 19, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[25]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–19190 Filed 7–28–11; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78q–1.

[25] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 29, 2011. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION: *Title:* ''Entrepreneurial Development Management Information System (EDMIS) Counseling Information Form & Management Training Report.''

Frequency: On Occasion.

SBA Form Number: 641,888.

Description of Respondents: SBA Resources.

Responses: 480,252.

Annual Burden: 233,631.

Curtis B. Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 2011–19146 Filed 7–28–11; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12708 and #12709]

Wyoming Disaster #WY–00017

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 Wyoming (FEMA–4007–DR), dated 07/22/2011.

Incident: Severe Storms, Flooding, and Landslides.

Incident Period: 05/18/2011 through 07/08/2011.

Effective Date: 07/22/2011.

Physical Loan Application Deadline Date: 09/20/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 04/23/2012.

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 07/22/2011, 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: Albany, Big Horn, Carbon, Crook, Fremont, Goshen, Johnson, Lincoln, Platte, Sheridan, Sublette, Teton, Uinta, Washakie, Weston, and the Wind River Indian Reservation.

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 12708B and for economic injury is 12709B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19235 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12653 and #12654]

North Dakota Disaster Number ND–00024

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1981–DR), dated 06/24/2011.

Incident: Flooding.

Incident Period: 02/14/2011 through 07/20/2011.

DATES: Effective Date: 07/20/2011.

Physical Loan Application Deadline Date: 08/23/2011.

EIDL Loan Application Deadline Date: 03/21/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of North Dakota, dated 06/24/2011 is hereby amended to establish the incident period for this disaster as beginning 02/14/2011 and continuing through 07/20/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19160 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12586 and #12587]

North Dakota Disaster Number ND–00025

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–1981–DR), dated 05/10/2011.

Incident: Flooding.

Incident Period: 02/14/2011 through 07/20/2011.

EFFECTIVE DATE: 07/20/2011.

Physical Loan Application Deadline Date: 07/11/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 02/10/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 05/10/2011, is hereby amended to establish the incident period for this disaster as beginning 02/14/2011 and continuing through 07/20/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19154 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12675 and #12676]

Arizona Disaster #AZ–00016

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of disaster for the State of Arizona dated 07/11/2011.

Incident: Monument Fire, Subsequent Mudslides and Monsoonal Flooding.

Incident Period: 06/12/2011 and continuing.

Effective Date: 07/21/2011.

Physical Loan Application Deadline Date: 09/09/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 04/11/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Administrator's disaster declaration for the State of Arizona, dated 07/11/2011 is hereby amended to modify the incident description for this disaster from Monument Fire to Monument Fire, Subsequent Mudslides and Monsoonal Flooding.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 21, 2011.

Karen G. Mills,

Administrator.

[FR Doc. 2011–19148 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12645 and #12646]

Montana Disaster Number MT–00063

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Montana (FEMA–1996–DR), dated 06/17/2011.

Incident: Severe Storms and Flooding.

Incident Period: 04/03/2011 and continuing.

Effective Date: 07/22/2011.

Physical Loan Application Deadline Date: 08/16/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/19/2012.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Montana, dated 06/17/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Daniels, Deer Lodge, Flathead, Glacier, Granite, Jefferson, Lewis and Clark, Liberty, Madison, Park, Pondera, Powell, Ravalli, Richland, Sheridan, Teton, Toole, and the Blackfeet Indian Reservation.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19238 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12645 and #12646]

Montana Disaster Number MT–00063

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Montana (FEMA–1996–DR), dated 06/17/2011.

Incident: Severe Storms and Flooding.

Incident Period: 04/03/2011 through 07/22/2011.

Effective Date: 07/22/2011.

Physical Loan Application Deadline Date: 08/16/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/19/2012.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Montana, dated 06/17/2011, is hereby amended to establish the incident period for this disaster as beginning 04/03/2011 and continuing through 07/22/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19239 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12639 and #12640]

Massachusetts Disaster Number MA–00037

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Massachusetts (FEMA–1994–DR), dated 06/15/2011.

Incident: Severe Storms and Tornadoes.

Incident Period: 06/01/2011.

Effective Date: 07/21/2011.

Physical Loan Application Deadline Date: 08/15/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/15/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Massachusetts, dated 06/15/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Areas

The Towns of Southbridge and Sturbridge in Worcester County.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19237 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12706 and #12707]

New Hampshire Disaster #NH–00018

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 New Hampshire (FEMA–4006–DR), dated 07/22/2011.

Incident: Severe Storms and Flooding.

Incident Period: 05/26/2011 through 05/30/2011.

Effective Date: 07/22/2011.

Physical Loan Application Deadline Date: 09/20/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 04/23/2012.

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 07/22/2011, 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: Coos, Grafton.

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 12706B and for economic injury is 12707B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–19240 Filed 7–28–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 7539]

10-Day Notice of Proposed Information Collection: Technology Security/ Clearance Plans, Screening Records, and Non-Disclosure Agreements

ACTION: Notice of request for public comment and submission to OMB of proposed information collection.

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:* Technology Security/Clearance Plans, Screening Records, and Non-Disclosure Agreements Pursuant to 22 CFR 126.18.
- *OMB Control Number:* 1405–XXXX.
- *Type of Request:* New Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number:* None.
- *Respondents:* Business and Nonprofit Organizations, Foreign Governments.
- *Estimated Number of Respondents:* 100,000.
- *Estimated Number of Responses:* 100,000.
- *Average Hours per Response:* 10 hours.
- *Total Estimated Burden:* 1,000,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Mandatory.

DATES: The Department will accept comments from the public up to 10 days from July 29, 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 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: Direct requests for additional information regarding the collection listed in this notice to Nicholas Memos, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112, who may be reached via phone at (202) 663–2829, 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: The export, temporary import, temporary export and brokering of defense articles, defense services and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations (''ITAR,'' 22 CFR parts 120–130) and Section 38 of the Arms Export Control Act (AECA). Those who manufacture or export defense articles, defense services, and related technical data, or the brokering thereof, must register with the Department of State. Persons desiring to engage in export, temporary import, and brokering activities must submit an application or written request to conduct the transaction to the Department to obtain a decision whether it is in the interests of U.S. foreign policy and national security to approve the transaction. Also, registered brokers must submit annual reports regarding all brokering activity that was transacted, and registered manufacturers and exporter must maintain records of defense trade activities for five years. Section 126.18 eliminates, subject to certain conditions, the requirement for an approval by DDTC of the transfer of unclassified defense articles, which includes technical data, within a foreign business entity, foreign governmental entity, or international organization, that is an approved or otherwise authorized end-user or consignee (including transfers to approved sub-licensees) for those defense articles, including the transfer to dual nationals or third-country nationals who are bona fide regular employees, directly employed by the foreign consignee or end-user. The conditions are that effective procedures must be in place to prevent diversion to any destination, entity, or for purposes other than those authorized by the applicable export license or other authorization. Those conditions can be met by requiring a security clearance approved by the host nation government for its employees, or the end-user or consignee have in place a process to screen all its employees and to have executed a Non-Disclosure Agreement that provides assurances that the employee will not transfer any defense articles to persons or entities unless specifically authorized by the consignee or end-user. Section 126.18 also provides that the technology security/clearance plan, screening records, and Non-Disclosure Agreements will be made available to DDTC or its agents for law enforcement purposes upon request.

Methodology: This information collection may be sent to the Directorate of Defense Trade Controls via the following methods: electronically, mail, and/or fax.

Dated: July 21, 2011.

Robert S. Kovac,

Managing Director of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2011–19254 Filed 7–28–11; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 7541]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Invention of Glory: Afonso V and the Pastrana Tapestries''

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 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The Invention of Glory: Afonso V and the Pastrana Tapestries,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about September 18, 2011, until on or about January 8, 2012, the Meadows Museum, Dallas, Texas, from on or about February 5, 2012, until on or about May 13, 2012, the San Diego Museum of Art, San Diego, California, from on or about June 10, 2012, until on or about September 9, 2012, the Indianapolis Museum of Art, Indianapolis, Indiana, from on about October 5, 2012, until on or about January 6, 2013, and the Peabody Essex Museum, Salem, Massachusetts, from on or about February 3, 2013, until on or about May 5, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: July 21, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–19251 Filed 7–28–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7540]

Culturally Significant Objects Imported for Exhibition Determinations: ''5,000 Years of Chinese Jade Featuring Selections From the National Museum of Taiwan and the Arthur M. Sackler Gallery, Smithsonian Institution''

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, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''5,000 Years of Chinese Jade Featuring Selections from the National Museum of Taiwan and the Arthur M. Sackler Gallery, Smithsonian Institution,'' 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 San Antonio Museum of Art, San Antonio, TX, from on or about October 1, 2011, until on or about February 19, 2012, 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: July 22, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–19252 Filed 7–28–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Special Awareness Training for the Washington DC Metropolitan Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 26, 2011, vol. 76, no. 102, page 30753. This collection of information is required of persons who must receive training and testing under 14 CFR 91.161 in order to fly within 60 nautical miles (NM) of the Washington, DC omni-directional range/distance measuring equipment (DCA VOR/DME).

DATES: Written comments should be submitted by August 29, 2011.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 385–4293, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 2120–0734.

Title: Special Awareness Training for the Washington DC Metropolitan Area.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The final rule containing this information collection requirement was published on August 12, 2008 (73 FR 46797). The collection of information is solicited by the FAA in order to maintain a National database registry for those persons who are required to receive training and be tested for flying in the airspace that is within 60 NM of the DCA VOR/DME. This National database registry provides the FAA with information on how many persons and the names of those who have completed this training.

Respondents: Approximately 366 pilots.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1 hour.

Estimated Total Annual Burden: 122 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on July 25, 2011.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–300.

[FR Doc. 2011–19167 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Consensus Standards, Light-Sport Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: This notice announces the availability of one new and two revised consensus standards to previously accepted consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule issued July 16, 2004, and effective September 1, 2004. ASTM International Committee F37 on Light Sport Aircraft developed the revised standards with Federal Aviation Administration (FAA) participation. By this notice, the FAA finds the new and revised standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule.

DATES: Comments must be received on or before September 27, 2011.

ADDRESSES: Comments may be mailed to: Federal Aviation Administration, Small Airplane Directorate, Programs and Procedures Branch, ACE–114, *Attention:* Terry Chasteen, Room 301, 901 Locust, Kansas City, Missouri 64106. Comments may also be e-mailed to: *9-ACE-AVR-LSA-Comments@faa.gov.* All comments must be marked: Consensus Standards Comments, and must specify the standard being addressed by ASTM designation and title.

FOR FURTHER INFORMATION CONTACT: Terry Chasteen, Light-Sport Aircraft Program Manager, Programs and Procedures Branch (ACE–114), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4147; *e-mail: terry.chasteen@faa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces the availability of one new and two revised consensus standards to previously accepted consensus standards relating to the provisions of the Sport Pilot and Light-Sport Aircraft rule. ASTM International Committee F37 on Light Sport Aircraft developed the new and revised standards. The FAA expects a suitable consensus standard to be reviewed at least every two years. The two-year review cycle will result in a standard revision or reapproval. A standard is issued under a fixed designation (i.e., F2244); the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A reapproval indicates a two-year review cycle completed with no technical changes. A superscript epsilon (ε) indicates an editorial change since the last revision or reapproval. A notice of availability (NOA) will only be issued for new or revised standards. Reapproved standards issued with no technical changes or standards issued with editorial changes only (i.e., superscript epsilon (ε)) are considered accepted by the FAA without need for a NOA.

Comments Invited: Interested persons are invited to submit such written data, views, or arguments, as they may desire. Communications should identify the consensus standard number and be submitted to the address specified above. All communications received on or before the closing date for comments will be forwarded to ASTM International Committee F37 for consideration. The standard may be changed in light of the comments received. The FAA will address all comments received during the recurring review of the consensus standard and will participate in the consensus standard revision process.

Background: Under the provisions of the Sport Pilot and Light-Sport Aircraft rule, 69 FR 44772 (July 27, 2004), and revised Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' dated February 10, 1998, industry and the FAA have been working with ASTM International to develop consensus standards for light-sport aircraft. These consensus standards satisfy the FAA's goal for airworthiness certification and a verifiable minimum safety level for light-sport aircraft. Instead of developing airworthiness standards through the rulemaking process, the FAA participates as a member of Committee F37 in developing these standards. The use of the consensus standard process assures government and industry discussion and agreement on appropriate standards for the required level of safety.

Comments on Previous Notices of Availability

In the Notice of Availability (NOA) issued on November 11, 2010, and published in the **Federal Register** on November 18, 2011 the FAA asked for public comments on the new and revised consensus standards accepted by that NOA. The comment period closed on January 18, 2011. No public comments were received regarding the standards accepted by this NOA.

Consensus Standards in This Notice of Availability

The FAA has reviewed the standards presented in this NOA for compliance with the regulatory requirements of the rule. Any light-sport aircraft issued a special light-sport airworthiness certificate, which has been designed, manufactured, operated and maintained, in accordance with this and previously accepted ASTM consensus standards provides the public with the appropriate level of safety established under the regulations. Manufacturers who choose to produce these aircraft and certificate these aircraft under 14 CFR part 21, §§ 21.190 or 21.191 are subject to the applicable consensus standard requirements. The FAA maintains a listing of all accepted standards on the FAA Web site.

The Revised Consensus Standard and Effective Period of Use

The following previously accepted consensus standards have been revised, and this NOA is accepting the later revision. Either the previous revision or the later revision may be used for the initial certification of special light-sport aircraft until November 12, 2011. This overlapping period of time will allow aircraft that have started the initial certification process using the previous revision level to complete that process. After November 12, 2011, manufacturers must use the later revision and must identify the later revision in the Statement of Compliance for initial certification of special light-sport aircraft unless the FAA publishes a specific notification otherwise. The following Consensus Standards may not be used after November 12, 2011:

ASTM Designation F2245–09, titled: Standard Specification for Design and Performance of a Light Sport Airplane

ASTM Designation F2506–07, titled: Standard Specification for Design and Testing of Fixed-Pitch or Ground Adjustable Light Sport Aircraft Propellers.

The Consensus Standards

The FAA finds the following new and revised consensus standards acceptable for certification of the specified aircraft under the provisions of the Sport Pilot and Light-Sport Aircraft rule. The following consensus standards become effective May 12, 2011 and may be used unless the FAA publishes a specific notification otherwise:

ASTM Designation F2245–10c, titled: Standard Specification for Design and Performance of a Light Sport Airplane

ASTM Designation F2506–10, titled: Standard Specification for Design and Testing of Fixed-Pitch or Ground Adjustable Light Sport Aircraft Propellers

ASTM Designation F2746–09, titled: Standard Specification for Pilot's Operating Handbook (POH) for Light Sport Airplane.

Availability

These consensus standards are copyrighted by ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959. Individual reprints of a standard (single or multiple copies, or special compilations and other related technical information) may be obtained by contacting ASTM at this address, or at (610) 832–9585 (phone), (610) 832–9555 (fax), through *service@astm.org* (e-mail), or through the ASTM Web site at *http://www.astm.org.* To inquire about standard content and/or membership or about ASTM International Offices abroad, contact Christine DeJong, Staff Manager for Committee F37 on Light Sport Aircraft: (610) 832–9736, *cdejong@astm.org.*

Issued in Kansas City, Missouri on July 20, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–19163 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2011–33]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 18, 2011.

ADDRESSES: You may send comments identified by Docket Number FAA–2011–0686 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98057–3356, or Frances Shaver, (202) 267–4059, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on July 25, 2011.

Dennis R. Pratte,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2011–0686.

Petitioner: Gulfstream Aerospace LP.

Section of 14 CFR Affected: 25.901(c).

Description of Relief Sought: The petitioner requests relief from the single-failure requirement for uncontrolled high-thrust failures as they may affect a limited flight envelope of the Gulfstream Model G280 airplane.

[FR Doc. 2011–19221 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on I–5: Fern Valley Interchange Project: Jackson County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitations on claims for judicial review of actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA, National Marine Fisheries Service (NMFS) and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, I–5: Fern Valley Interchange in Jackson County, Oregon. This action grants approval for the project.

DATES: By this notice, the FHWA 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 January 25, 2012. 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: Michelle Eraut, Environmental Program Manager, Federal Highway Administration, 530 Center Street, NE., Suite 420, Salem, Oregon 97301, Telephone: (503) 316–2559. The I–5: Fern Valley Interchange Environmental Assessment (EA) and other project records are available upon written request from the Federal Highway Administration at the address shown above. Comments or questions concerning this proposed action and the I–5: Fern Valley Interchange should be directed to the FHWA at the address provided above.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139 (l)(1) by issuing approval for the following highway project in the State of Oregon: I–5: Fern Valley Interchange. The project will replace the existing interchange at Fern Valley with a crossing-diamond type interchange to improve safety and increase capacity. To the west of I–5, the existing bridge over Bear Creek will be replaced by a longer wider structure and continuing west, Fern Valley Road will be widened two lanes and the OR99/Fern Valley intersection will be improved. East of the interchange, North Phoenix Road will be realigned and South Phoenix Road will be extended to meet at a new intersection to the north where Grove Way, Extended South Phoenix Road and North Phoenix Road meet. The actions by the Federal agencies and the laws under which such actions were taken are described in the October 18, 2010, Environmental Assessment for the project and in the FHWA Finding of No Significant Impact (FONSI) issued on June 30, 2011 and in other documents in the FHWA project records. The EA, FONSI and other project records are available by contacting the FHWA at the address provided above. The FHWA EA and FONSI can be viewed and downloaded from the project Web site at *http://www.oregon.gov/ODOT/HWY/REGION3/fvi_index.shtml.* 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:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4347]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. Air: Clean Air Act [42 U.S.C. 7401–7671(q)].
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 1536 and 49 U.S.C. 303]; Section 6(f) of the Land and Water Conservation Fund Act (LWCF) [16 U.S.C. 460(l)–8f]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. Wildlife: Section 7 of the Endangered Species Act [16 U.S.C. 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470f]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–470(ll)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)].
6. Social and Economic: Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000(d) *et seq.*]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
7. Wetlands and Water Resources: Clean Water Act [33 U.S.C. 1251–1377]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Emergency Wetlands Resources Act, [16 U.S.C. 3921, 3931]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133 (b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].
8. 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. 13007 Indian Sacred Sites, E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; 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: July 25, 2011.

Michelle Eraut,

Environmental Program Manager, Salem, Oregon.

[FR Doc. 2011–19199 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0213]

Motorcoach Safety Summit and Regional Roundtables

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Notice of meetings, request for public comment.

SUMMARY: The U.S. Department of Transportation announces that it will hold a national Motorcoach Safety Summit (National Summit), hosted by the Federal Motor Carrier Safety Administration (FMCSA) to exchange information and ideas on the best possible approaches to reduce the number of motorcoach crashes, injuries, and fatalities and raise passenger awareness. Leading up to the National Summit, the Department will hold four regional roundtable discussions. Seating is limited for all events. Individuals with diverse experience, expertise, and perspectives are encouraged to attend. Please visit our dedicated Web site at *http://www.fmcsa.dot.gov/motorcoach/2011* as details for each continue to evolve.

DATES, TIMES, AND ADDRESSES: The first regional roundtable session will be held August 3, 2011, from 8 a.m. to noon (local time) in Dallas at the Marriott Dallas/Fort Worth Airport South, 4151 Centreport Boulevard, Fort Worth, TX 76155 (1–817–358–1700), Web page: *http://www.marriott.com/hotels/travel/dfwam-dallas-fort-worth-airport-marriott-south/.*

The second regional roundtable session will be held August 4, 2011, from 8 a.m. to noon (local time) in New York City at the New York Marriott Downtown, 85 West Street at Albany Street, New York, NY 10006 (1–212–385–4900), Web page: *http://www.marriott.com/hotels/travel/nycws-new-york-marriott-downtown/.*

The third regional roundtable session will be held August 5, 2011 from 8 a.m. to noon (local time) in Columbus, Ohio at the Hyatt Columbus Capitol Square, 75 East State Street, Columbus, OH 43215 (1–614–228–1234), Web page: *http://capitolsquare.hyatt.com/hyatt/hotels/index.jsp?null.*

The fourth regional roundtable session will be held August 8, 2011, from noon to 4 p.m. (local time) in Los Angeles at the Hilton Anaheim, 777 Convention Way, Anaheim, CA 92802 (1–714–750–4321), Web page: *http://www.hiltonanaheimtour.com.*

The National Summit will take place on September 23, 2011, in Washington, DC. FMCSA will announce the location and address for the National Summit at a later date and will post the information at *http://www.fmcsa.dot.gov/motorcoach/2011.*

The Department welcomes comments or questions prior to and during the National Summit and Regional Roundtables. The discussion for each Regional Roundtable session and concurrent online dialogue will center around four challenge questions:

1. How can we increase awareness of the importance of safety and enforcement among all stakeholders including industry, law enforcement, consumer groups, safety advocates, and passengers themselves?
2. What are the policy-related challenges or barriers for motorcoach safety and how do we develop opportunities to address each?
3. What are the challenges and gaps related to motorcoach education and training for representatives from the industry, law enforcement, consumer groups, safety advocates, and passengers themselves?
4. What are the challenges and limitations for passengers when considering and purchasing motorcoach services?

The challenges and strategies garnered from the different feedback avenues will be used, with national data points, to frame the conversation during the National Summit. If you would like to submit a comment or question through this **Federal Register** Notice, in relation to any of the challenge questions and/or otherwise, you may do so under DOT Docket ID Number FMCSA–2011–0213 by any of the following methods:

- *Federal eRulemaking Portal:* the Federal Docket Management System (FDMS) address: *http://www.regulations.gov.*
- *Fax:* 202–493–2251.
- *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.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

Instructions: All submissions must include the Agency name and docket number (FMCSA–2011–0213) for this announcement. To avoid duplication, please use only one of these four methods. Note that all comments and questions received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please refer to the Privacy Act heading for further information.

Comments received after the comment closing date will be considered and incorporated as appropriate. For questions, see **FOR FURTHER INFORMATION CONTACT** below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** notice published on January 17, 2008 (73 FR 3316) at *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Ms. Dee Williams, Chief, Strategic Planning and Program Evaluation Division, FMCSA, telephone (202) 493–0192, or e-mail *motorcoachsafetysummit@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

Motorcoach transportation is one of the most cost-effective, accessible and

safe forms of public transportation. The past several months, however, have seen a number of tragic crashes around the United States that involve motorcoaches and buses. The U.S. Department of Transportation, through FMCSA, is convening a series of public meetings across the country as well as a national Motorcoach Safety Summit (National Summit), to exchange information and ideas on the best possible approaches to reduce the number of motorcoach crashes, injuries, and fatalities and raise passenger awareness. These meetings and the National Summit will bring together partners and stakeholders from all sides of the motorcoach community, including senior transportation officials, elected officials, safety advocates, law enforcement representatives, private sector representatives, academics, ticket brokers, and passengers to address a range of issues related to reducing crashes, injuries, and fatalities through enforcement, public awareness, and education. They will be open and interactive and FMCSA hopes that they will foster informative dialogue and innovative ideas and approaches.

FMCSA will host the National Summit in Washington, DC on September 23, 2011. Leading up to the Summit, FMCSA will hold Regional Roundtables on August 3rd in Dallas/Ft. Worth, TX, on August 4th in New York City, NY, on August 5th in Columbus, OH, and on August 8th in Los Angeles/Anaheim, CA. These locations represent corridors with high levels of motorcoach transportation and safety concerns. These Regional Roundtable discussions will engage participants from all sides of the motorcoach communities they represent, including state and local organizations (*i.e.,* law enforcement, industry, advocates, consumer groups) and the public. All information gathered will provide the framework for the National Summit. Goals of the National Summit include: identifying challenges, policy solutions, educational strategies, and best practices to enhance the culture of safety for the future of motorcoach transportation.

The U.S. Department of Transportation is committed to providing equal access to this National Summit. Based on limited seating and to accommodate the strong interest outside the Washington area, the National Summit will be available live by a Web cast that will comply with Section 508 of the Rehabilitation Act of 1973, as amended and members of the public will be given the opportunity to submit questions or comments online. The Department has also created a Web site to provide information and updates on the National Summit and Regional Roundtables as more details become available: *http://www.fmcsa.dot.gov/motorcoach/2011.*

Limited exhibit space will be available for the National Summit. Anyone who wishes to request exhibit space and/or who has questions pertaining to exhibit space should contact Ms. Dee Williams, Chief, Strategic Planning and Program Evaluation Division, FMCSA, telephone (202) 493–0192, or e-mail *motorcoachsafetysummit@dot.gov.*

FMCSA IdeaScale Community

In addition to the **Federal Register** notice where comments and questions are being accepted, FMCSA has set up an IdeaScale Community on its main Web site at *http://www.fmcsa.dot.gov.* This online dialogue will be driven by the same challenge questions as included under the ''Background'' section of this Notice. IdeaScale is a Department of Transportation initiative providing an interactive, on-line, transparent space for people to engage in conversation about draft proposals and vote if they agree or disagree.

Accessibility Needs

If you need special accommodations for the National Summit and/or the Regional Roundtables, such as sign language interpretation, please contact Ms. Dee Williams, Chief, Strategic Planning and Program Evaluation Division, FMCSA, telephone (202) 493–0192, or e-mail *dee.williams@dot.gov* at least forty-eight hours prior to the event, to allow us sufficient time to arrange for such services. We will make every attempt to fulfill requested accommodations.

Issued on: July 25, 2011.

William A. Bronrott,

Deputy Administrator, FMCSA.

[FR Doc. 2011–19184 Filed 7–28–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork 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 Community Development Financial Institutions Fund (the ''CDFI Fund'') within the Department of the Treasury is soliciting comments concerning the Community Development Financial Institutions (''CDFI'') Program: Certification/Re-certification Application located at *http://www.cdfifund.gov.*

DATES: Written comments should be received on or before September 27, 2011 to be assured of consideration.

ADDRESSES: Direct all comments to Erin McKevitt, Acting Certification, Compliance Monitoring and Evaluation Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, Facsimile Number (202) 622–7754.

FOR FURTHER INFORMATION CONTACT: The Certification/Re-certification application may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.* Requests for additional information should be directed to Erin McKevitt, Acting Certification, Compliance Monitoring and Evaluation Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, or call (202) 622–8662. This is not a toll free number.

SUPPLEMENTARY INFORMATION:

Title: The Community Development Financial Institutions Program—Certification/Re-Certification Application.

OMB Number: 1559–0028.

Abstract: The purpose of the CDFI Program is to promote economic revitalization and community development through investment in and assistance to certified CDFIs and entities seeking CDFI certification. Through the CDFI Program, the CDFI Fund makes financial investments in and provides technical assistance grants to CDFIs and organizations seeking CDFI certification that have comprehensive business plans for creating demonstrable community development impact through the deployment of capital within their respective target markets for community development finance purposes. In order to be certified as a CDFI, an entity must submit an application for certification to the CDFI Fund.

Type of review: Extension.

Affected Public: Not-for-profit institutions, businesses or other for-profit institutions and tribal entities.

Estimated Number of Respondents: 300.

Estimated Annual Time per Respondent: 37.5 hours.

Estimated Total Annual Burden Hours: 11,250 hours.

Requests 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 CDFI Fund, including whether the information shall have practical utility; (b) the accuracy of the CDFI Fund'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 technology; (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information; and (f) ways to minimize the burden of creating maps with contiguous census tracts as a requirement for Investment Area Target Markets.

Authority: 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, 4717; 12 CFR part 1805.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–19194 Filed 7–28–11; 8:45 am]

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S. 1103/P.L. 112–24
To extend the term of the incumbent Director of the Federal Bureau of Investigation. (July 26, 2011; 125 Stat. 238)
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