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Contents

Federal Register

Vol. 76, No. 181

Monday, September 19, 2011

Agriculture Department
See Commodity Credit Corporation
See Forest Service

Air Force Department
NOTICES
Meetings:
Air University Board of Visitors, 57979

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Medicare & Medicaid Services
NOTICES
Privacy Act; Systems of Records, 58007–58011

Civil Rights Commission
NOTICES
Meetings:
New Hampshire Advisory Committee, 57950–57951

Coast Guard
RULES
Regulated Navigation Areas:
Route 24 Bridge Construction, Tiverton and Portsmouth, RI, 57910–57913

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

Commodity Credit Corporation
PROPOSED RULES
Export Credit Guarantee (GSM–102) Program, 57940

Council of the Inspectors General on Integrity and Efficiency

NOTICES
Senior Executive Service Performance Review Board Membership, 57947–57950

Defense Department
See Air Force Department
See Engineers Corps
NOTICES
Meetings:
Wage Committee, 57978–57979

Defense Nuclear Facilities Safety Board
NOTICES
Senior Executive Service Performance Review Board; Membership, 57980–57981

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Employment and Training Administration
NOTICES
Amended Certifications Regarding Eligibility to Apply for Worker Adjustment Assistance:
Applied Materials, Inc., et al., Austin, TX, 58045
Klaussner Furniture Industries, Inc., et al., Asheboro, NC and Milford, IA, 58044–58045
The MEGA Life and Health Ins., Co., et al., North Richland, TX, 58044
Determinations Regarding Eligibility to Apply for Worker Adjustment and Alternative Trade Adjustment Assistance, 58045–58046
Investigations of Certifications of Eligibility to Apply for Worker Adjustment and Alternative Trade Adjustment Assistance, 58046–58047

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
RULES
Energy Conservation Program:
Standards for Certain External Power Supplies, 57897–57900
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board, Portsmouth, 57981
National Coal Council, 57981–57982

Energy Efficiency and Renewable Energy Office
NOTICES
Building Energy Codes Cost Analysis, 57982

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Permit Application for Widening of Bayou Casotte and Lower Sound Channels of the Pascagoula Harbor Channel, 57979–57980

Environmental Protection Agency
RULES
National Emission Standards for Hazardous Air Pollutants for Area Sources:
Plating and Polishing; Withdrawal, 57913–57923
NOTICES
Draft Framework for the U.S.–Mexico Environmental Program; Border 2020; Availability, 57983–57985

Federal Aviation Administration
RULES
Airworthiness Directives:
WYTWORNIA SPRZETU KOMUNIKACYJNEGO (WSK) ''PZL–RZESZOW'' – SPOLKA AKCYJNA (SA) PZL–10W Turboshaft Engines, 57900–57902
Amendment and Establishment of Air Traffic Service Routes; Northeast United States, 57902–57905
NOTICES
Meetings:
RTCA Program Management Committee, 58077–58078
RTCA Special Committee 147; Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment, 58077

RTCA Special Committee 214, Working Group 78; Standards for Air Traffic Data Communication Services, 58078
Passenger Facility Charge Approvals and Disapprovals, 58079–58082

Federal Communications Commission
RULES
Satellite Digital Audio Radio Service in the 2310–2360 MHz Frequency Band, 57923–57924
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57985–57989
Meetings:
Video Programming and Accessibility Advisory Committee, 57989
Privacy Act; Systems of Records, 57989–57992

Federal Deposit Insurance Corporation
NOTICES
Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions, 57992–58003

Federal Emergency Management Agency
NOTICES
Emergency Declarations:
New Hampshire; Amendment No. 2, 58026
New York; Amendment No. 2, 58026
Rhode Island; Amendment No. 1, 58026–58027
Vermont; Amendment No. 1, 58027
Virginia; Amendment No. 2, 58026
Major Disaster Declarations:
North Carolina; Amendment No. 8, 58027–58028
Pennsylvania; Amendment No. 1, 58028
Puerto Rico; Amendment No. 3, 58027
Meetings:
Board of Visitors for the National Fire Academy, 58028–58029

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 57982–57983

Federal Reserve System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58003–58005
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 58005
Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction, 58005

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
Revising the List for the Gray Wolf (Canis lupus) in the Eastern United States, 57943–57944

Food and Drug Administration
RULES
Implantation or Injectable Dosage Form New Animal Drugs:
Ivermectin, 57905–57906
New Animal Drugs:
Gamithromycin, 57906–57907
Tolerances for Residues of New Animal Drugs in Food:
Progesterone, 57907
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Experimental Study; Effect of Promotional Offers in Direct-to-Consumer Prescription Drug Print Advertisements on Consumer Product Perceptions, 58011–58018
Draft Guidance for Industry on Self-Selection Studies for Nonprescription Drug Products; Availability, 58018
Meetings:
Circulatory System Devices Panel of the Medical Devices Advisory Committee, 58019–58020
Tobacco Products Scientific Advisory Committee, 58019
Prescription Drug User Fee Act IV Information Technology Plan; Availability, 58020–58021

Forest Service
NOTICES
Meetings:
Ashley Resource Advisory Committee, 57950

Government Printing Office
NOTICES
Meetings:
Depository Library Council to the Public Printer, 58005

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Consumer Health IT Pledge Program; Availability, 58006
Delegation of Authority:
National Coordinator for Health Information Technology, 58006
Meetings:
Advisory Group on Prevention, Health Promotion, and Integrative and Public Health, 58007
Secretary's Advisory Committee on Human Research Protections, 58006–58007

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58021–58023

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Citizenship and Immigration Services
See U.S. Customs and Border Protection

Interior Department
See Fish and Wildlife Service
See National Park Service

International Trade Administration
NOTICES
Continuation of Antidumping Duty Orders:
Glycine from the People's Republic of China, 57951
Final Rescissions of Antidumping Duty Administrative Reviews:
Certain Lined Paper Products from the People's Republic of China, 57951–57953
Final Results of Antidumping Duty Administrative Reviews:
Certain Polyester Staple Fiber from Taiwan, 57955–57956

Light-Walled Rectangular Pipe and Tube from Turkey, 57953–57955
Renewable Energy and Energy Efficiency Executive Business Development Mission; Clarification and Amendment, 57956–57957

International Trade Commission
NOTICES
Determinations:
Certain Polyester Staple Fiber From Korea and Taiwan, 58040
General Exclusion Orders:
Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same, 58040–58041
Investigations:
Certain Digital Televisions Containing Integrated Circuit Devices and Components Thereof, 58041–58042

Justice Department
PROPOSED RULES
Freedom of Information Act, 57940–57941
NOTICES
Lodging of Consent Decrees Under CERCLA, 58042
Lodging of Modifications to Consent Decrees Under CERCLA, 58043
Lodging of Stipulations of Settlements and Judgments Pursuant to the Clean Water Act, 58043

Labor Department
See Employment and Training Administration

Maritime Administration
PROPOSED RULES
Retrospective Review under E.O. 13563:
Meetings; Cargo Preference, 57941–57943

National Aeronautics and Space Administration
NOTICES
Intent to Grant Exclusive Licenses, 58047

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 58047–58048

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 58048–58049

National Institutes of Health
NOTICES
Meetings:
Center For Scientific Review, 58025
National Heart, Lung. and Blood Institute, 58025
National Human Genome Research Institute, 58023
National Institute of Allergy and Infectious Diseases, 58024–58025
National Institute of Biomedical Imaging and Bioengineering, 58023
National Institute on Deafness and Other Communication Disorders, 58023–58024

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Northeastern United States:
Northeast Multispecies Fisheries, Small-Mesh Multispecies, 57944–57945
Fisheries Off West Coast States; West Coast Salmon Fisheries:
Salmon Fishery Management Plan, 57945–57946
NOTICES
Environmental Impact Statements; Availability, etc.:
Fishery Management Plan for Spiny Lobster Resources of the Gulf of Mexico and South Atlantic, 57957–57958
Replacement of NOAA Southwest Fisheries Science Center in La Jolla, CA, 57957
Meetings:
South Atlantic Fishery Management Council, 57958–57959
Takes of Marine Mammals Incidental to Specified Activities:
Marine Geophysical Survey in the Central Pacific Ocean, November, 2011 through January, 2012, 57959–57978

National Park Service
NOTICES
Intent to Repatriate Cultural Items:
Denver Museum of Nature and Science, Denver, CO, 58032–58033
State Historical Society of Wisconsin, Madison, WI, 58032
Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA, 58031–58032
Inventory Completions:
Bureau of Indian Affairs, Washington, DC and Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK, 58038–58039
Bureau of Reclamation, Phoenix Area Office, Phoenix, and Arizona State Museum, University of Arizona, Tucson, AZ, 58035–58036
Native American Human Remains and Associated Funerary Objects, Colorado Historical Society, Denver, CO; Correction, 58037–58038
Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA, 58033–58035, 58039–58040

National Science Foundation
NOTICES
Meetings:
Astronomy and Astrophysics Advisory Committee, 58049
Permit Applications Received Under the Antarctic Conservation Act of 1978, 58049

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 58049

Nuclear Regulatory Commission
NOTICES
Atomic Safety and Licensing Board; Hearings:
Honeywell International Ltd., Metropolis Works Uranium Conversion Facility, 58049–58050
Environmental Assessments; Availability, etc.:
Tennessee Valley Authority, Bellefonte Nuclear Power Plant, Unit 1, 58050–58057

Pipeline and Hazardous Materials Safety Administration
NOTICES
Applications for Special Permits, 58082–58083

Postal Regulatory Commission
NOTICES
Post Office Closings, 58057–58059

Securities and Exchange Commission
NOTICES
Applications:
Investment Managers Series Trust, et al., 58059–58061
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 58063–58065, 58074
Chicago Mercantile Exchange, Inc., 58071–58072
Financial Industry Regulatory Authority, Inc., 58061
International Securities Exchange, LLC, 58068–58071
NASDAQ OMX BX, Inc., 58065–58068, 58072–58074
Options Clearing Corp., 58061–58063

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Sponsored Academic Exchange Program Application, 58074
Culturally Significant Objects Imported for Exhibition Determinations:
Cervera Bible, 58075
Maharaja; The Splendor of India's Royal Courts, 58076
Rembrandt and Degas; Two Young Artists, 58075–58076
Sanja Ivekovic; Sweet Violence, 58074–58075
Designations as Foreign Terrorist Organizations:
The Indian Mujahideen, 58076
Designations as Global Terrorists:
The Indian Mujahideen, 58076
Meetings:
International Security Advisory Board, 58076–58077
Reintegration of Former Members of Foreign Terrorist Organizations:
Certification for Use of Fiscal Year 2011 Economic Support Funds, 58077

Transportation Department
See Federal Aviation Administration
See Maritime Administration
See Pipeline and Hazardous Materials Safety Administration
RULES
Transportation for Individuals with Disabilities at Various Passenger Railroad Station Platforms, 57924–57939

Treasury Department
RULES
Indorsement and Payment of Checks Drawn on the United States Treasury, 57907–57910
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58083–58087

U.S. Citizenship and Immigration Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 58029–58030

U.S. Customs and Border Protection
NOTICES
Meetings:
Advisory Committee on Commercial Operations of Customs and Border Protection, 58030–58031

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

Proposed Rules:

1493 57940

10 CFR

429 57897

430 57897

14 CFR

39 57900

71 57902

21 CFR

522 (2 documents) 57905, 57906

556 (2 documents) 57906, 57907

28 CFR

Proposed Rules:

16 57940

31 CFR

240 57907

33 CFR

165 57910

40 CFR

63 57913

46 CFR

Proposed Rules:

381 57941

382 57941

47 CFR

25 57923

49 CFR

37 57924

38 57924

50 CFR

Proposed Rules:

17 57943

648 57944

660 57945

Rules and Regulations

Federal Register

Vol. 76, No. 181

Monday, September 19, 2011

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

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2008–BT–STD–0005]

RIN 1904–AB57

Energy Conservation Program: Energy Conservation Standards for Certain External Power Supplies

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendment.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this technical amendment to exclude external power supplies used in specific applications from certain energy conservation standards prescribed under the Energy Policy and Conservation Act (EPCA). Congress enacted this exclusion, which applies to external power supplies used either in security or life safety alarms or surveillance system components, earlier this year. DOE is also modifying its current certification requirements to make them consistent with this change.

DATES: *Effective Date:* October 19, 2011.

FOR FURTHER INFORMATION CONTACT:

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Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. E-mail: *michael.kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (Pub. L. 110–140) amended section 325(u)(3) of the Energy Policy and Conservation Act (EPCA) to establish energy conservation standards for all Class A external power supplies. (42 U.S.C. 6295(u)(3)) Among these requirements, Congress included a limit on the amount of power that these devices could draw while operating in ''no-load'' mode. (The ''no-load'' mode refers to the condition in which a power supply is connected to mains but not to the separate end-use product that it powers (*i.e.,* the load).) These no-load mode requirements were applied to all Class A external power supplies, irrespective of whether a particular product actually operated in no-load mode.

Subsequently, Congress revisited this issue. On January 4, 2011, Congress enacted Public Law 111–360, which amended section 325(u)(3) of EPCA by prescribing a definition for ''security or life safety alarm or surveillance system'' and excluding those external power supplies used in certain security or life safety alarms or surveillance system components from the no-load mode requirements Congress had previously set.

Today's action codifies Congress's revision to EPCA. Additionally, to ensure consistency throughout its regulatory framework, DOE is also modifying the certification requirements for Class A external power supplies that appear in the Code of Federal Regulations (CFR). These amendments reflect the recent changes enacted by Congress and do not alter any other aspects related to the energy conservation standards for these products. Amendments to those standards, if any, will be handled through a separate rulemaking proceeding.

II. Summary of Today's Action

DOE is placing the definition and exclusions of certain security and life safety alarms and surveillance systems from the no-load requirements for external power supplies into 10 CFR part 430 (''Energy Conservation Program for Certain Consumer Products''). DOE is making certain formatting changes needed to ensure that the new provisions conform to the existing text of this part. In addition, DOE is prescribing modifications to 10 CFR part 429 (''Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment''). As a result of these provisions, manufacturers of certain external power supplies for security and life safety alarms and surveillance systems will have the option to certify that their products meet the appropriate definition and, therefore, are exempt from the no-load mode requirements for Class A external power supplies.

In light of the applicable statutory requirement enacted by Congress to set a specific exemption from the no-load mode energy conservation standards for the products described above, the absence of any benefit in providing comment given that the rule incorporates the specific exemption created by the statutory provision, and the unnecessary delay that would follow were DOE to provide comment on a provision that it cannot alter, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the actions outlined in this document. For these reasons, providing prior notice and an opportunity for public comment would, in this instance, be unnecessary and contrary to the public interest. For the same reason, DOE finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule.

III. Procedural Requirements

A. Review Under Executive Order 12866, ''Regulatory Planning and Review''

Today's final rule is not a ''significant regulatory action'' under any of the criteria set out in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant

economic impact on a substantial number of small entities. As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking,* 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. The Department has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* DOE today is revising the Code of Federal Regulations to incorporate, without substantive change, exemptions to energy conservation standards and related provisions prescribed by Public Law No. 111–360. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply to this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

This rulemaking imposes no new information or recordkeeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6 of Appendix A to Subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a),(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note)

provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rulemaking under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, and Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, and Small businesses.

Issued in Washington, DC, on September 12, 2011.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby amends chapter II, subchapter D, of title 10 of the Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.37 is amended by adding new paragraph (b)(2)(iii) to read as follows:

§ 429.37 Class A external power supplies.

* * * * *

(b) * * *

(2) * * *

(iii) External power supplies that are exempt from no-load mode requirements under § 430.32(w)(1)(iii): A statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active mode efficiency as a percent (%), the nameplate output power in watts (W), and if missing from the nameplate, the certification report must also include the output current in amperes (A) of the basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.2 is amended by adding the definition for ''*Security or life safety alarm or surveillance system*'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Security or life safety alarm or surveillance system means:

(1) Equipment designed and marketed to perform any of the following functions (on a continuous basis):

(i) Monitor, detect, record, or provide notification of intrusion or access to real property or physical assets or notification of threats to life safety.

(ii) Deter or control access to real property or physical assets, or prevent the unauthorized removal of physical assets.

(iii) Monitor, detect, record, or provide notification of fire, gas, smoke, flooding, or other physical threats to real property, physical assets, or life safety.

(2) This term does not include any product with a principal function other than life safety, security, or surveillance that:

(i) Is designed and marketed with a built-in alarm or theft-deterrent feature; or

(ii) Does not operate necessarily and continuously in active mode.

* * * * *

■ 5. Section 430.32 is amended by revising paragraph (w)(1)(i) and adding paragraph (w)(1)(iii) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(w) *Class A external power supplies.* (1)(i) Except as provided in paragraphs (w)(1)(ii) and (w)(1)(iii) of this section, all Class A external power supplies manufactured on or after July 1, 2008, shall meet the following standards:

* * *

(iii) *Non-application of no-load mode requirements.* The no-load mode energy efficiency standards established in paragraph (w)(1)(i) of this section shall not apply to an external power supply manufactured before July 1, 2017, that—

(A) Is an AC-to-AC external power supply;

(B) Has a nameplate output of 20 watts or more;

(C) Is certified to the Secretary as being designed to be connected to a security or life safety alarm or surveillance system component; and

(D) On establishment within the External Power Supply International Efficiency Marking Protocol, as referenced in the ''Energy Star Program

Requirements for Single Voltage External Ac-Dc and Ac-Ac Power Supplies'' (incorporated by reference, see § 430.3), published by the Environmental Protection Agency, of a distinguishing mark for products described in this clause, is permanently marked with the distinguishing mark.

* * * * *

[FR Doc. 2011–23965 Filed 9–16–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0760; Directorate Identifier 2011–NE–10–AD; Amendment 39–16789; AD 2011–18–07]

RIN 2120–AA64

Airworthiness Directives; WYTWORNIA SPRZETU KOMUNIKACYJNEGO (WSK) ''PZL–RZESZOW''—SPOLKA AKCYJNA (SA) PZL—10W Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

An uncommanded engine in-flight shutdown of a PZL–10W has been recently reported. The investigation has shown that the uncommanded engine in-flight shutdown was due to excessive spline wear on the fuel metering pump shaft.

This condition, if not identified and corrected, may lead to further uncommanded in-flight engine shutdowns and consequent emergency landings of the affected helicopters.

We are issuing this AD to prevent uncommanded engine in-flight shutdown and risk to the helicopter.

DATES: This AD becomes effective October 4, 2011.

We must receive comments on this AD by October 19, 2011.

The Director of the Federal Register approved the incorporation by reference of WSK Obligatory Bulletin No. E–19W147B/DOA/2010 (this bulletin has no issue date), listed in the AD as of October 4, 2011.

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.lawrence@faa.gov;* phone: (781) 238–7176; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0030, dated February 25, 2011, (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

An uncommanded engine in-flight shutdown of a PZL–10W has been recently reported. The investigation has shown that the uncommanded engine in-flight shutdown was due to excessive spline wear on the fuel metering pump shaft.

This condition, if not identified and corrected, may lead to further uncommanded in-flight engine shutdowns and consequent emergency landings of the affected helicopters.

To address this unsafe condition, WSK ''PZL–Rzeszów'' S.A. has developed an inspection programme of the fuel metering pump shaft.

For the reasons described above, this AD requires an inspection of the fuel metering pump shaft and the accomplishment of the associated corrective actions, as applicable.

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

Relevant Service Information

WSK ''PZL–Rzeszów'' S.A has issued Obligatory Bulletin No. E–19W147B/DOA/2010 (this bulletin has no issue date). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of Poland, and is approved for operation in the United States. Pursuant to our bilateral agreement with EASA, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

Since no domestic operators use this product, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, we are adopting this regulation immediately.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0760; Directorate Identifier 2011–NE–10–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor

union, *etc.*). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2011–18–07 WYTWORNIA SPRZETU KOMUNIKACYJNEGO (WSK) PZL—Rzeszow'' SPOLKA AKCYJNA (SA): Amendment 39–16789; Docket No. FAA–2011–0760; Directorate Identifier 2011–NE–10–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 24, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to WSK PZL–10W series turboshaft engines with a fuel metering pump, part number ALRP–5, installed. These engines are installed on, but not limited to, PZL W–3A and PZL W–3AS helicopters.

Reason

(d) The MCAI states that:

An uncommanded engine in-flight shutdown of a PZL–10W has been recently reported. The investigation has shown that the uncommanded engine in-flight shutdown was due to excessive spline wear on the fuel metering pump shaft.

This condition, if not identified and corrected, may lead to further uncommanded in-flight engine shutdowns and consequent emergency landings of the affected helicopters.

We are issuing this AD to prevent uncommanded engine in-flight shutdown and risk to the helicopter.

Actions and Compliance

(e) Within the compliance time indicated in Table 1 of this AD, perform a one time inspection of spline teeth on the fuel metering pump shaft for excessive wear Use WSK Obligatory Bulletin no. E–19W147B/DOA/2010 (this bulletin has no issue date) to do the inspection.

TABLE 1

Engine configuration at the effective date of this AD	Compliance time for the inspection
(1) Engine fitted with a fuel metering pump that has accumulated grater than or equal to 1 000 hours of engine operation since new or since last overhaul..	Within 25 hours of engine operation after the effective date of this AD.
(2) Engine fitted with a fuel metering pump that has accumulated less than 1 000 hours since new or since last overhaul..	Before accumulating 1,000 hours of engine operation since new or since last overhaul, or within 25 hours of engine operation after the effective date of this AD, whichever is later.

(3) Do not operate any aircraft with an engine fuel metering pump that fails the inspection required by paragraph (e) of this AD.

(4) After the effective date of this AD, do not install any ALRP–5 fuel pump on an engine unless it passes the inspection required by paragraph (e) of this AD.

FAA AD Differences

(f) This AD doesn't require reporting.

Other FAA AD Provisions

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

Alternative Methods of Compliance (AMOCs)

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

Paperwork Reduction Act Burden Statement

(2) For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

Related Information

(h) Refer to MCAI Airworthiness Directive 2011–0030, dated February 25, 2011.

(i) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA,

Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.lawrence@faa.gov;* phone: (781) 238–7176; fax: (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(j) You must use WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO Obligatory Bulletin No. E–19W147B/DOA/2010 (this bulletin has no issue date), to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO PZL—Rzeszów'' S.A. Hetmańska 120 35–078 RZESZÓW; Poland; phone: (0–17) 8546100, 8546200, fax: (0–17) 8620750.

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

Issued in Burlington, Massachusetts on August 18, 2011.

Peter A. White,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–23930 Filed 9–16–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0376; Airspace Docket No. 10–AEA–11]

RIN 2120–AA66

Amendment and Establishment of Air Traffic Service Routes; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends five existing Air Traffic Service (ATS) routes and establishes four new ATS routes. The existing routes being amended are Q–42, J–60, V–16, V–229 and V–449. The new routes are Q–62, Q–406, Q–448 and Q–480. The FAA is taking this action to increase National Airspace System (NAS) efficiency, enhance safety and reduce delays within the New York metropolitan area airspace.

DATES: Effective date 0901 UTC, October 20, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

On May 17, 2011, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend jet route J–60, area navigation (RNAV) route Q–42, and VOR Federal airways V–16, V–229 and V–449 (76 FR 28379). In addition, the FAA proposed to establish four new RNAV routes designated as Q–62, Q–406, Q–448 and Q–480. The changes were proposed to facilitate the routing of westbound air traffic departing the New York metropolitan area and better sequence departing traffic with en route overflight traffic to reduce delays within the New York terminal airspace. Additionally, the changes were designed to more efficiently accommodate aircraft landing within the Potomac Terminal Radar Approach Control (TRACON) airspace.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Forty comments were received.

Discussion of Comments

Comments received fell within three general categories: administrative issues, safety issues and environmental issues.

Administrative Issues

One commenter believed that there was an error in the description of Federal airway V–229 as published in the NPRM. The FAA reviewed the proposed V–229 description and determined that it was correctly published. Several commenters contend that the description of the proposed ATS route changes in the NPRM are not easily understandable to the general public. The FAA does not include a graphic depiction of ATS route proposals in a NPRM because most ATS routes extend for long distances and the reduced scale used by the **Federal Register** when publishing the graphic would cause the resulting ''picture'' to be compressed to such a degree that it would provide little value to a commenter. The NPRM for this proposal did include a written description of the changes for each route as well as the ''legal description'' listing each point that makes up the route. For area navigation (RNAV) routes, the legal description also includes the latitude and longitude of each point. Once the establishment of, or modification of, a route is adopted in a final rule, the route will be illustrated on the appropriate aeronautical chart(s).

Another commenter commented generally that the proposal circumvented the Administrative Procedure Act (APA). The FAA does not agree. The APA (Title 5, U.S.C., section 553) governs the process by which agencies of the Federal government may propose and establish regulations. The FAA has fully complied with APA notice and comment requirements applicable to this rulemaking action.

Safety Issues

Commenters argued that the proposed routes are a danger to the public, that aircraft should not overfly residential areas for safety reasons, and that the redesigned flight paths will strain and subject airports beyond their physical limitations and place the community at risk. The FAA does not agree that the changes adopted in this rule will adversely impact safety. To the contrary, the routes have been carefully designed to enhance the safety and efficiency of air traffic operations. As with other major U.S. cities served by high volume airport(s), the New York metropolitan area is densely populated with residential land uses surrounding all of the major airports. Arrivals into and departures from these airports cannot avoid overflight of all residential areas. The ATS route changes in this route will not put a strain on airport operations or place the surrounding communities at risk. The route changes will, however, serve to increase the safety and efficiency of air traffic operations at the airports as part of a solution to the longstanding issues of air traffic congestion and delays.

Environmental Issues

The majority of the comments received dealt with one or more environmental concerns. Many opposed the changes stating that additional environmental study was required. The FAA does not agree. The National Environmental Policy Act (NEPA) requires the FAA to conduct an environmental review prior to implementing any Federal action, such as the implementation of new or amended air traffic procedures. All of the routes described in this rulemaking were reviewed accordingly. Public comments received in response to the NPRM were considered during this

review, as well as the potential for extraordinary circumstances resulting from these new and amended routes.

Others believed that the ATS route changes significantly modify the NY/NJ/PHL Metropolitan Area Airspace Redesign project, approved in 2007. None of the ATS routes contained in this action impact the findings in the NY/NJ/PHL Metropolitan Area Airspace Redesign Environmental Impact Statement (EIS).

Some commenters called for the FAA to conduct an EIS, as was done for the NY/NJ/PHL Metropolitan Area Airspace Redesign, and to obtain air quality sampling information.[1] An EIS is not warranted for these actions because the routes are too high to create a significant noise impact. Furthermore, implementation of the ATS routes in this rule are expected to improve overall fuel savings and therefore, would decrease air quality impacts.

The five ATS routes that are amended in this rule (J–60, Q–42, Q–406, Q–448 and Q–480) are in the high altitude structure and their lowest base altitude is 18,000 feet MSL.[2] Since the base altitude of the routes is 18,000 feet MSL, no noise analysis is required. (*See* 65 FR 76339; December 6, 2000.) Route Q–62 is a new high altitude route which also has a base altitude of 18,000 feet MSL and does not require noise analysis. Additionally, Q–62 overlies an existing jet route J–64. Routes V–16, V–229, and V–449 are existing routes in the low altitude structure. These routes include altitudes between 10,000 and 18,000 feet MSL which are utilized primarily by single-engine propeller-driven aircraft. Because of the altitudes of those routes, no noise analysis is required.[3] (*See* 65 FR 76339; December 6, 2000.)

The noise information in the Noise Mitigation Report is not expected to change as a result of this rule because, as previously discussed, the majority of the ATS changes in this rule occur above 10,000 feet MSL. Additionally, both V–16 and V–229 were realigned slightly in order to provide airspace for aircraft departing John F. Kennedy International Airport (JFK) to conduct unrestricted climbs to their en route altitudes. This change not only reduces noise in areas surrounding JFK by getting aircraft to higher altitudes faster, it also helps to deconflict air traffic.

Some communities felt that they are unfairly impacted by low flying aircraft and that traffic should be spread by using other airways. The area near LaGuardia Airport (LGA) was cited as an example. It should be emphasized that the ATS route changes in this rule will not result in additional air traffic volume. Instead, the routes are designed to provide operational improvements in the existing en route airway structure to handle existing air traffic in a safe and more efficient manner. Further, these route changes do not change the flight tracks into and out of LGA. The FAA reviewed LGA's arrival and departure flight tracks and found that procedures in use at LGA have not undergone any significant changes since October 2007. The arrival and departure routes for LGA (and any other airport) depend on a variety of factors including: runway in use, weather, the aircraft's destination, the proximity of other airports and air traffic to and from those airports. The procedures that take departing aircraft from the runway up to join their intended airway in the en route structure, or bring arriving aircraft down from the en route airway structure to the runway, are designed to maintain safety and efficiency. This is especially important in a complex airspace area, such as New York with its several major airports (JFK, LGA, Newark-Liberty International, *etc.*) being in such close proximity.

The amendments to these ATS routes do not trigger any extraordinary circumstances, and therefore an environmental assessment is not warranted. The FAA has determined that this action is categorically excluded in accordance with FAA Order 1050.1E, paragraphs 311a, 311b and 311i.

Differences From NPRM

There are no changes to the descriptions of ATS Routes Q–42, Q–62, V–16, and V–229 from that published in the NPRM. Minor changes or edits were made to J–60, Q–406, Q–480 and Q–448, as described below. J–60 has been modified slightly from the proposal. The position of the dog-leg referenced in the NPRM (northwest of East Texas, PA VOR/DME) was moved 0.3 nautical miles southeast of the proposed position along the path of the original J–60. From this point, the airway turns and proceeds directly to the SPARTA VORTAC. This caused the NEWEL intersection (SPARTA, NJ 253° radial and the Broadway, NJ 295° radial) to be moved 0.58 nautical miles to the southeast. These changes simplify navigation by creating a single dog-leg, removing all references to Ravine, PA and the Broadway, NJ and using only the Philipsburg, PA and Sparta, NJ bearings as a reference for this portion of the airway.

An editorial change is made to Q–406 and Q–448 by changing the name of one waypoint in the description from JEETR to DBABE. After publication of the NPRM, it was found that a similar sounding fix (JETER) already existed in the NAS within 120 miles of the proposed JEETR. To avoid confusion, and in the interest of safety, the waypoint name change is being made. It is important to note that the latitude and longitude of this waypoint did not change from that set forth in the NPRM and, therefore, the alignment of Q–406 and Q–448 remains the same as proposed.

A minor change to the position of the CANDR waypoint affects the description of Q–480. The proposed position of CANDR was lat. 40°58′02″ N., long. 74°57′30″ W. As a result of refinements aligning CANDR as an intersection on J–60, Q–480 and the DEEZZ Standard Instrument Departure Procedure, the latitude/longitude position of CANDR was adjusted by 0.38 nautical miles. The revised CANDR coordinates are lat. 40°57′59.35″ N., long. 74°57′28.70″ W.

Due to rounding, the CANDR coordinates in the Q–480 legal description are lat. 40°57'59''N., long. 74°57'29''W.

The routing of V–449 differs from the NPRM in that the proposed segment that extended between the Selinsgrove, PA VORTAC and the Milton, PA VORTAC has been deleted. Flight inspection of that segment could not be completed in the allotted time, so the segment is being deleted from the route description.

The Rule

This action amends Title 14 Code of Federal Regulation (14 CFR) part 71 by modifying existing routes J–60, Q–42, V–16, V–229 and V–449. J–60 is realigned to help reduce congestion and converging en route aircraft flows, and to mitigate a choke point over the existing ELIOT departure fix.

RNAV route Q–42 is amended by deleting the current segments between the BRNAN, PA, waypoint (WP) and ELIOT, PA, WP and replacing them with segments extending from BRNAN WP to new WPs HOTEE, PA; BTRIX, PA; SPOTZ, PA, and terminating at a new waypoint ZIMMZ, NJ. This change will

[1] The FAA did prepare an EIS for the NY/NJ/PHL Metropolitan Area Airspace Redesign project. The EIS contained a fuel burn analysis resulting in a ''presumed to conform'' air quality determination. The FAA also published noise impacts attributed to the NY/NJ/PHL Airspace Redesign project in a report titled ''Noise Mitigation Report,'' dated April 6, 2007. This report can be found on the project Web site at the following link: *http://www.faa.gov/air_traffic/nas_redesign/regional_guidance/eastern_reg/nynjphl_redesign/documentation/media.Noise_Mitigation_Report.pdf.*

[2] These five ATS routes were studied in the NY/NJ/PHL Metropolitan Area Airspace Redesign (EIS).

[3] Routes Q–62, V–16, V–229, and V–499 were not included in the NY/NJ/PHL Metropolitan Area Airspace Redesign EIS.

also help reduce converging flows and congestion.

VOR Federal airways V–16 and V–229 are amended by inserting a dogleg north of their present courses by following the Kennedy VOR/DME 040° radial northeast of Kennedy VOR/DME. V–16 then turns east bound, bypassing the Deer Park VOR/DME, then proceeds to the Calverton VOR/DME and resumes its current course. V–229 is also modified along the Kennedy VOR/DME 040° radial, then turns eastbound to re-intercept its current course toward the Bridgeport, CT, VOR/DME. The V–16 and V–229 changes are intended to free up airspace to accommodate a climb corridor for John F. Kennedy International Airport (JFK) departures.

V–449, which currently extends between the Lake Henry, PA, VORTAC and the Albany, NY, VORTAC, is lengthened westward by adding a new segment that extends between the Milton, PA, VORTAC and the Lake Henry, PA, VORTAC. This change will facilitate routing for arrivals into La Guardia Airport.

Four new RNAV routes are being established and designated as Q–62, Q–406, Q–448 and Q–480. Q–62 will enhance westward flows, reduce congestion and provide flexibility for aircraft entering the Cleveland ARTCC area and routings toward Chicago.

Q–406, Q–448 and Q–480, along with the amended Q–42, will reduce current converging en route flows that result from dependency on ground-based navigation aids. The new Q-route segments will permit some alignment with New York departure fixes NEWEL, CANDR and ZIMMZ. These new fixes will be used for departures from the New York metropolitan area airports to transition and merge aircraft from the terminal structure into the high altitude en route structure and vice versa. In addition, the new routes will relieve congestion by providing alternate routings for aircraft landing at airports outside the New York Metropolitan area.

Jet routes are published in paragraph 2004, high altitude RNAV routes are published in paragraph 2006, and VOR Federal airways are published in paragraph 6010, respectively, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The jet routes, high altitude RNAV routes and VOR Federal airways listed in this document will be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority because it modifies the route structure of Jet Routes as required to preserve the safe and efficient flow of air traffic.

Radials listed in this rule are expressed in degrees relative to True North.

Environmental Review

The FAA has determined that this action is categorically excluded from further environmental documentation according to FAA Order 1050.1E, paragraph 311a, 311b, and 311i. The implementation of this action will not result in any extraordinary circumstances in accordance with paragraph 304 of Order 1050.1E.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011 and effective September 15, 2011, is amended as follows:

Paragraph 2004 Jet Routes

* * * * *

J–60 [Amended]

From Los Angeles, CA; via Paradise, CA; Hector, CA; Boulder City, NV; Bryce Canyon, UT; Hanksville, UT; Red Table, CO; Mile High, CO; Hayes Center, NE; Lincoln, NE; Iowa City, IA; Joliet, IL; Goshen, IN; DRYER, OH; Philipsburg, PA; INT Philipsburg 100° and Sparta, NJ, 253° radials to Sparta, NJ.

* * * * *

Paragraph 2006 United States Area Navigation Routes

* * * * *

Q42 Kirksville, MO (IRK) to ZIMMZ, NJ [Amended]

Kirksville, MO (IRK)	VORTAC	(Lat. 40°08′06″ N., long. 92°35′30″ W.)
STRUK, IL	WP	(Lat. 40°14′04″ N., long. 90°18′22″ W.)
Danville, IL (DNV)	VORTAC	(Lat. 40°17′38″ N., long. 87°33′26″ W.)
Muncie, IN (MIE)	VOR/DME	(Lat. 40°14′14″ N., long. 85°23′39″ W.)
HIDON, OH	WP	(Lat. 40°10′00″ N., long. 81°37′27″ W.)
BUBAA, OH	WP	(Lat. 40°10′27″ N., long. 80°58′17″ W.)
PSYKO, PA	WP	(Lat. 40°08′37″ N., long. 79°09′13″ W.)
BRNAN, PA	WP	(Lat. 40°08′07″ N., long. 77°50′07″ W.)
HOTEE, PA	WP	(Lat. 40°20′36″ N., long. 76°29′37″ W.)
BTRIX, PA	WP	(Lat. 40°36′06″ N., long. 75°49′11″ W.)
SPOTZ, PA	WP	(Lat. 40°45′55″ N., long. 75°22′59″ W.)
ZIMMZ, NJ	WP	(Lat. 40°48′11″ N., long. 75°07′25″ W.)

* * * * * * *

Q62 NOLNN, OH to SARAA, PA [New]

NOLNN, OH	WP	(Lat. 41°14′04″ N., long. 84°38′12″ W.)
WEEVR, OH	WP	(Lat. 41°13′21″ N., long. 84°13′04″ W.)
PSKUR, OH	WP	(Lat. 41°09′16″ N., long. 82°42′57″ W.)
FAALS, OH	WP	(Lat. 41°02′51″ N., long. 80°52′40″ W.)
ALEEE, OH	WP	(Lat. 41°00′28″ N., long. 80°31′54″ W.)
QUARM, PA	WP	(Lat. 40°49′45″ N., long. 79°04′39″ W.)
BURNI, PA	FIX	(Lat. 40°39′25″ N., long. 77°48′14″ W.)
MCMAN, PA	FIX	(Lat. 40°38′16″ N., long. 77°34′14″ W.)
VALLO, PA	FIX	(Lat. 40°37′37″ N., long. 77°26′18″ W.)
Ravine, PA (RAV)	VORTAC	(Lat. 40°33′12″ N., long. 76°35′58″ W.)
SUZIE, PA	FIX	(Lat. 40°27′12″ N., long. 75°58′22″ W.)
SARAA, PA	FIX	(Lat. 40°26′22″ N., long. 75°53′16″ W.)

Q406 Broadway, NJ (BWZ) to Barnes, MA (BAF) [New]

Broadway, NJ (BWZ)	VOR/DME	(Lat. 40°47′54″ N., long. 74°49′19″ W.)
DBABE, NY	WP	(Lat. 41°08′30″ N., long. 74°05′46″ W.)
BASYE, NY	FIX	(Lat. 41°20′37″ N., long. 73°47′55″ W.)
TRIBS, CT	WP	(Lat. 41°39′29″ N., long. 73°19′03″ W.)
BIGGO, CT	FIX.	(Lat. 41°57′21″ N., long. 73°04′05″ W.)
Barnes, MA (BAF)	VORTAC	(Lat. 42°09′43″ N., long. 72°42′58″ W.)

Q448 Pottstown, PA (PTW) to Barnes, MA (BAF) [New]

Pottstown, PA (PTW)	VORTAC	(Lat. 40°13′20″ N., long. 75°33′37″ W.)
LANNA, NJ	FIX	(Lat. 40°33′35″ N., long. 75°01′40″ W.)
DBABE, NY	WP	(Lat. 41°08′30″ N., long. 74°05′46″ W.)
BASYE, NY	FIX	(Lat. 41°20′37″ N., long. 73°47′55″ W.)
TRIBS, CT	WP	(Lat. 41°39′29″ N., long. 73°19′03″ W.)
BIGGO, CT	FIX.	(Lat. 41°57′21″ N., long. 73°04′05″ W.)
Barnes, MA (BAF)	VORTAC	(Lat. 42°09′43″ N., long. 72°42′58″ W.)

Q480 ZANDR, OH to Kennebunk, ME (ENE) [New]

ZANDR, OH	FIX	(Lat. 40°00′19″ N., long. 81°31′58″ W.)
Bellaire, OH (AIR)	VOR/DME	(Lat. 40°01′01″ N., long. 80°49′02″ W.)
LEJOY, PA	FIX	(Lat. 40°00′12″ N., long. 79°24′54″ W.)
VINSE, PA	FIX	(Lat. 39°58′16″ N., long. 77°57′21″ W.)
BEETS, PA	WP	(Lat. 39°57′20″ N., long. 77°26′59″ W.)
HOTEE, PA	WP	(Lat. 40°20′36″ N., long. 76°29′37″ W.)
BTRIX, PA	WP	(Lat. 40°36′06″ N., long. 75°49′11″ W.)
SPOTZ, PA	WP	(Lat. 40°45′55″ N., long. 75°22′59″ W.)
CANDR, NJ	WP	(Lat. 40°57′59″ N., long. 74°57′29″ W.)
JEFFF, NJ	WP	(Lat. 41°14′46″ N., long. 74°27′43″ W.)
Kingston, NY (IGN)	VOR/DME	(Lat. 41°39′56″ N., long. 73°49′20″ W.)
LESWL, CT	WP	(Lat. 41°53′31″ N., long. 73°19′20″ W.)
Barnes, MA (BAF)	VORTAC	(Lat. 42°09′43″ N., long. 72°42′58″ W.)
Kennebunk, ME (ENE)	VORTAC	(Lat. 43°25′32″ N., long. 70°36′49″ W.)

* * * * *

Paragraph 6010 VOR Federal Airways

V–16 [Amended]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; INT Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; INT Kennedy 040° and Calverton, NY, 261° radials; Calverton; Norwich, CT;

Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

V–229 [Amended]

From Patuxent, MD; INT Patuxent 036° and Atlantic City, NJ, 236° radials; Atlantic City; INT Atlantic City 055° and Colts Neck, NJ, 181° radials; INT Colts Neck 181° and Kennedy, NY, 209° radials; Kennedy; INT Kennedy 040° and Calverton, NY, 261° radials; INT Calverton 261° and Kennedy 053° radials; INT Kennedy 053° and Bridgeport, CT, 200° radials; Bridgeport; Hartford, CT; INT Hartford 040° and Gardner, MA, 195° radials; Gardner; Keene, NH; INT Keene 336° and Burlington, VT, 160° radials; to Burlington. The airspace within R–5002B is excluded during times of use. The airspace below 2,000 feet MSL outside the United States is excluded.

V–449 [Amended]

From Milton, PA; INT Milton 064° and Williamsport, PA 109° radials; Lake Henry, PA; DeLancey, NY; Albany, NY.

Issued in Washington, DC on September 12, 2011.

Gary A. Norek,

Acting Manager, Airspace, Regulations and ATC Procedures Group.

[FR Doc. 2011–23839 Filed 9–16–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2011–N–0003]

Implantation or Injectable Dosage Form New Animal Drugs; Ivermectin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for use of an ivermectin injectable solution for treatment and control of various internal and external parasites in cattle, swine, reindeer, and American bison.

DATES: This rule is effective September 19, 2011.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, *e-mail: john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–447 for the use of BIMECTIN (ivermectin) Injection for Cattle and Swine for treatment and control of various internal and external parasites in cattle, swine, reindeer, and American bison. Cross Vetpharm Group Ltd.'s BIMECTIN Injection for Cattle and Swine is approved as a generic copy of Merial Ltd.'s IVOMEC (ivermectin) Injection for Cattle and Swine, approved under NADA 128–409. The ANADA is approved as of July 5, 2011, and the regulations in 21 CFR 522.1192 are amended to reflect the approval.

A summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

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

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.1192, revise paragraph (b)(2) to read as follows:

§ 522.1192 Ivermectin.

* * * * *

(b) * * *

(2) Nos. 055529, 058005, 059130, and 061623 for use of the product described in paragraph (a)(2) of this section as in paragraphs (e)(2), (e)(3), (e)(4), and (e)(5) of this section.

* * * * *

Dated: September 13, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–23865 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

[Docket No. FDA–2011–N–0003]

New Animal Drugs; Gamithromycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original new animal drug application (NADA) filed by Merial, Ltd. The NADA provides for the veterinary prescription use of gamithromycin injectable solution for the management of bovine respiratory disease (BRD). FDA is also amending the regulations to add the established tolerances for residues of gamithromycin in edible tissues of cattle.

DATES: This rule is effective September 19, 2011.

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

SUPPLEMENTARY INFORMATION: Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640 filed NADA 141–328 that provides for the veterinary prescription use of ZACTRAN (gamithromycin), an injectable solution, in beef and non-lactating dairy cattle for the treatment of BRD associated with *Mannheimia haemolytica, Pasteurella multocida,* and *Histophilus somni;* and for the control of respiratory disease in beef and non-lactating dairy cattle at high risk of developing BRD associated with *M. haemolytica* and *P. multocida.* The application is approved as of June 16, 2011, and the regulations are amended in 21 CFR parts 522 and 556 to reflect the approval.

A summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning on the date of approval.

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

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Section 522.1014 is added to read as follows:

§ 522.1014 Gamithromycin.

(a) *Specifications.* Each milliliter (mL) of solution contains 150 milligrams (mg) gamithromycin.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.292 of this chapter.

(d) *Conditions of use*—(1) *Cattle*—(i) *Amount.* Administer 6 mg/kilogram of body weight (2 mL per 110 pounds) one time by subcutaneous injection in the neck.

(ii) *Indications for use.* For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida,* and *Histophilus somni* in beef and non-lactating dairy cattle; and for the control of respiratory disease in beef and non-lactating dairy cattle at high risk of developing BRD associated with *M. haemolytica* and *P. multocida.*

(iii) *Limitations.* Cattle intended for human consumption must not be slaughtered within 35 days from the last treatment. Do not use in female dairy cattle 20 months of age or older. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 4. Section 556.292 is added to read as follows:

§ 556.292 Gamithromycin.

(a) *Acceptable Daily Intake (ADI).* The ADI for total residues of gamithromycin is 10 micrograms per kilogram of body weight per day.

(b) *Tolerances.* The tolerances for gamithromycin (the marker residue) are:

(1) *Cattle*—(i) *Liver (the target tissue):* 500 parts per billion (ppb).

(ii) *Muscle.* 150 ppb.

(2) *[Reserved]*

(c) *Related conditions of use.* See § 522.1014 of this chapter.

Dated: September 13, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–23874 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 556

[Docket No. FDA–2011–N–0003]

Tolerances for Residues of New Animal Drugs in Food; Progesterone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to update the allowable incremental increase for residues of progesterone in edible tissues of cattle and sheep based on the 1994 revised daily consumption values. This action is being taken to improve the accuracy of the regulations.

DATES: This rule is effective September 19, 2011.

FOR FURTHER INFORMATION CONTACT: Kevin Gaido, Center for Veterinary Medicine (HFV–153), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8212, e-mail: *kevin.gaido@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) (21 CFR 514.105(a)) directs FDA to establish tolerances by regulation, as necessary, when a new animal drug is approved for use in food-producing animals. Progesterone is approved for use in subcutaneous implants used for increased rate of weight gain in suckling beef calves and steers (21 CFR 522.1940) and in vaginal inserts used for management of the estrous cycle in female cattle and ewes (21 CFR 529.1940).

FDA has noticed the animal drug tolerance regulations do not reflect levels for progesterone using the daily consumption values in the current guidance document, ''Guideline for Establishing a Safe Concentration'' (59 FR 37499, July 22, 1994). At this time, FDA is amending 21 CFR 556.540 to reflect the revised daily consumption values as applied to edible tissues of cattle. Sheep are considered a minor species for human food safety assessment, and the updated allowable incremental increase limits for cattle tissues based on the revised daily consumption values are applicable to sheep. This action is being taken to improve the accuracy of the regulations.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 556 is amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

■ 2. Revise § 556.540 to read as follows:

§ 556.540 Progesterone.

(a) [Reserved]

(b) *Tolerances.* Residues of progesterone are not permitted in excess of the following increments above the concentrations of progesterone naturally present in untreated animals:

(1) *Cattle and sheep*—(i) *Muscle:* 5 parts per billion (ppb).

(ii) *Liver:* 15 ppb.

(iii) *Kidney:* 30 ppb.

(iv) *Fat:* 30 ppb.

(2) [Reserved]

(c) *Related conditions of use.* See §§ 522.1940 and 529.1940 of this chapter.

Dated: September 13, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–23867 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 240

RIN 1510–AB25

Indorsement and Payment of Checks Drawn on the United States Treasury

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This final rule authorizes the Department of the Treasury (Treasury), Financial Management Service (FMS), to direct Federal Reserve Banks to debit a financial institution's Master Account for all check reclamations against the financial institution that the financial institution has not protested. Financial

institutions will continue to have the right to file a protest with FMS if they believe a proposed reclamation is in error.

DATES: This rule is effective October 19, 2011.

FOR FURTHER INFORMATION CONTACT: Sandra Walls, Reclamation Branch Manager, Check Resolution Division, at (202) 874–7945 or *sandra.walls@fms.treas.gov;* or William J. Erle, Senior Counsel, at (202) 874–6975 or *william.erle@fms.treas.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Treasury (Treasury), Financial Management Service (FMS),[1] is amending its regulation at 31 CFR part 240 (Part 240), governing the indorsement and payment of checks drawn on the United States Treasury. Part 240 sets forth how checks may be indorsed and the remedies available to Treasury when checks are improperly negotiated. The rule provides for the allocation of loss between the Government and indorsers of the check. In addition, Part 240 provides information on how Treasury will collect debts owed by financial institutions and other indorsers when they fail to pay check reclamations made by Treasury.

On January 4, 2010, Treasury issued a notice of proposed rulemaking (NPRM) requesting comments on its proposal to provide Treasury with the authority to direct Federal Reserve Banks to debit a financial institution's Master Account for all check reclamations for which the financial institution has not submitted a valid protest with supporting documentation. *See* 75 FR 95. The proposed rule explained that FMS will notify the financial institution of the reclamation by sending a NOTICE OF DIRECT DEBIT (RECLAMATION), which also will inform the financial institution that, if the reclamation is not paid by the 30th day after the direct debit notice date, the financial institution's Master Account will be debited by its servicing Federal Reserve Bank.

II. Discussion of Comments

FMS received two comments on the proposed rule—one from a financial institution and one from a banking association. Both commenters indicated that the proposed 30-day notice period before a direct debit is carried out was too short. Rather, they suggested that FMS provide a financial institution with notice 60 days before directing the Federal Reserve to debit the financial institution's Master Account. FMS carefully considered this comment and decided to keep the proposed 30-day notice period. Currently 95% of all Treasury reclamations are already paid by financial institutions within 30 days. An extended processing time would not be consistent with the goal of the revised regulation—to expedite and streamline the process of collecting unpaid reclamations. When a financial institution has reason to believe the reclamation direct debit should not proceed, it may file a protest.

Both commenters indicated that FMS should clarify which account will be debited in a reclamation direct debit. They pointed out that the NPRM refers to both an ''account'' and a ''reserve account.'' FMS agrees that this point should be clarified. Therefore, the final rule includes a new definition for ''Master Account'' that mirrors the definition found in Federal Reserve Banks Operating Circular 1. Additionally, throughout the rule, ''reserve account'' and ''account'' have been replaced with ''Master Account.''

Although not a direct comment on the proposed rule, both commenters expressed concern with the amount of time FMS takes to process reclamation protests. In response to this concern, FMS notes that it routinely exceeds the goal set forth in Part 240: that FMS will make every effort to decide a properly submitted protest within 60 days. In fiscal year 2010, 85% of bank protests received were resolved within 30 days. Still, some complicated protests take longer to resolve. FMS will continue to work diligently to make final decisions as quickly as possible. Contrary to one commenter's assertion, FMS maintains a reclamations Web page (*http://www.fms.treas.gov/goldbook*) that provides a telephone number, a facsimile number, an e-mail address, and a mailing address for financial institutions to use to get information about their protests.

Finally, one commenter asked FMS to include in the final rule requirements for refund transaction processing. The commenter was concerned that, in the event FMS provides a refund for a reclamation payment, the refund may include interest and penalties already paid by the financial institution in addition to the original reclamation debt. To maintain accurate accounting for refund transactions, the commenter asked FMS to provide more information about the refund amount and to include the requirements for refund transaction processing in the final rule. Currently, on the check issued in settlement for a bank protest, FMS prints ''refund for check #XXXX–XX,XXX,XXX'' to aid the financial institution in cross-referencing against their reclamation records. After direct debiting has been instituted, FMS will begin to make changes to its systems to allow electronic refunds via credit to the financial institution's Master Account. FMS believes that more information about the refund amount is not necessary because normally, penalties, administrative fees, and interest will not be assessed since the debit will occur on the 31st day after the reclamation date.

III. Clarifications and Technical Corrections

FMS is amending § 240.9(b)(3)(ii) to clarify that Treasury must receive a reclamation protest within 60 days after the reclamation date. The NPRM specified that if a financial institution files a reclamation protest within 30 days after the reclamation date, Treasury would not instruct the Federal Reserve Bank to debit the financial institution's Master Account. *See* § 240.9(a)(1)(iii). The preamble to the NPRM specified that a financial institution has an additional 30 days after the direct debit date to submit a reclamation protest. To provide for a 30-day period before direct debit and a 30-day period after direct debit, § 240.9(b)(3)(ii) is amended to specify a total of 60 days after the reclamation date.

Throughout the rule, the term ''Director, Financial Processing Division,'' is replaced with ''responsible FMS Director.'' This change allows the rule to remain accurate should re-organizations occur.

Sections 240.9(a)(2) and 240.9(b)(3) are revised to update the mailing address for submitting a request to inspect Treasury records, to submit a repayment agreement, or to submit a reclamation protest. The rule is revised to provide addresses through the Check Claims Web site or the Goldbook: The Check Reclamation Guide.

Sections 240.9(a)(1)(i) and (iii), and 240.9(b)(4)(iii) are revised to replace the words ''of'' and ''from'' with the word ''after,'' to make it clear that a financial institution has 30 days after the reclamation date to pay the reclamation debt or file a protest before Treasury instructs the Federal Reserve Bank to debit the financial institution's Master Account. Therefore, the debit will occur on the 31st day after the reclamation date.

This Final Rule also corrects the NPRM by spelling the word

[1] FMS is the bureau within Treasury charged with implementing Treasury's authority in this area. The terms Treasury and FMS are used interchangeably in this rule.

''indorsement'' with an ''i'' wherever it appears.

IV. Procedural Analyses

Regulatory Planning and Review

The final rule does not meet the criteria for a ''significant regulatory action'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

Regulatory Flexibility Act Analysis

It is hereby certified that the rule will not have a significant economic impact on a substantial number of small entities. This rule would eliminate certain administrative fees and interest and penalty charges in order to streamline and automate reclamation procedures. The changes to the regulation related to automating reclamations should have a minimal economic impact on small financial institutions and in fact, may reduce some costs for financial institutions affected by the changes. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required.

List of Subjects in 31 CFR Part 240

Banks, Banking, Checks, Counterfeit checks, Federal Reserve system, Forgery, and Guarantees.

For the reasons set forth in the preamble, we are amending 31 CFR part 240 as follows:

PART 240—INDORSEMENT AND PAYMENT OF CHECKS DRAWN ON THE UNITED STATES TREASURY

■ 1. The authority citation for part 240 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 321, 3327, 3328, 3331, 3334, 3343, 3711, 3712, 3716, 3717; 332 U.S. 234 (1947); 318 U.S. 363 (1943).

■ 2. In part 240 revise all references to ''the Director, Financial Processing Division'' and ''the Director of the Financial Processing Division'' wherever they appear to read ''the responsible FMS Director''.

■ 3. In § 240.1, add paragraph (d) to read as follows:

§ 240.1 Scope of regulations.

* * * * *

(d) A financial institution's indorsement or presentment of a U.S. Treasury check shall constitute its agreement to this part. The financial institution hereby authorizes its servicing Federal Reserve Bank to debit the financial institution's Federal Reserve Master Account for the amount of the reclamation and any accrued interest, penalties and/or administrative costs in accordance with the provisions of § 240.9.

■ 4. In § 240.2, redesignate paragraphs (t) through (mm) as (u) through (nn), and add new paragraph (t) to read as follows:

§ 240.2 Definitions.

* * * * *

(t) *Master Account* means the record of financial rights and obligations of an account holder and the Federal Reserve Bank with respect to each other, where opening, intraday, and closing balances are determined.

* * * * *

■ 5. In § 240.9, revise paragraphs (a), (b)(3) introductory text, (b)(3)(ii), and (b)(4)(iii) to read as follows:

§ 240.9 Reclamation procedures; reclamation protests.

(a) Reclamation procedures. (1) Treasury will send a ''NOTICE OF DIRECT DEBIT (RECLAMATION)'' to the reclamation debtor in accordance with § 240.8(a). This notice will advise the reclamation debtor of the amount demanded and the reason for the demand. Treasury will provide notice to the reclamation debtor that:

(i) If the reclamation debt is not paid within 30 days after the reclamation date, Treasury intends to collect the amount outstanding by instructing the appropriate Federal Reserve Bank to debit on the 31st day the Master Account used by the reclamation debtor. The Federal Reserve Bank will provide advice of the debit to the reclamation debtor;

(ii) The reclamation debtor has an opportunity to inspect and copy Treasury's records with respect to the reclamation debt;

(iii) The reclamation debtor may, by filing a protest in accordance with § 240.9(b), request Treasury to review its decision that the reclamation debtor is liable for the reclamation debt. If such a protest is filed within 30 days after the reclamation date, Treasury will not instruct the appropriate Federal Reserve Bank to debit the Master Account used by the reclamation debtor while the protest is still pending; and

(iv) The reclamation debtor has an opportunity to enter into a written agreement with Treasury for the repayment of the reclamation debt. A request for a repayment agreement must be accompanied by documentary proof that satisfies Treasury that the reclamation debtor is unable to repay the entire amount owed when due.

(2) Requests by a reclamation debtor for an appointment to inspect and copy Treasury's records with respect to a reclamation debt and requests to enter into repayment agreements must be sent in writing to the address provided on the Check Claims Web site at *http://www.fms.treas.gov/checkclaims* or to such other address as Treasury may publish in the Goldbook: The Check Reclamation Guide, which can be found at *http://www.fms.treas.gov.*

(3) If Treasury determines a reclamation debt is due and the Federal Reserve Bank is unable to debit the financial institution's Master Account, FMS will assess interest, penalties, and administrative costs in accordance with § 240.8. Additionally, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and Treasury Check Offset in accordance with § 240.11.

(4) If Treasury determines a reclamation has been made in error, Treasury will abandon the reclamation. If Treasury already has collected the amount of the reclamation from the reclamation debtor, Treasury will promptly refund to the reclamation debtor the amount of its payment.

(b) * * *

(3) Procedures for filing a protest. A reclamation protest must be sent in writing to the address provided on the Check Claims Web site at *http://www.fms.treas.gov/checkclaims* or to such other address as Treasury may publish in the Goldbook: The Check Reclamation Guide, which can be found at *http://www.fms.treas.gov.*

* * * * *

(ii) Treasury will not consider reclamation protests received more than 60 days after the reclamation date.

* * * * *

(4) * * *

(iii) If the responsible FMS Director, or an authorized designee, finds, by a preponderance of the evidence, the reclamation debtor is liable for the reclamation debt, Treasury will notify the reclamation debtor of his or her decision in writing. If the reclamation debtor has not paid the reclamation in full, Treasury will direct the Federal Reserve Bank to debit the financial institution's Master Account immediately, provided at least 30 days have passed after the date of the NOTICE OF DIRECT DEBIT (RECLAMATION). If at least 30 days have not yet passed after the date of the NOTICE OF DIRECT DEBIT (RECLAMATION), Treasury will direct the Federal Reserve Bank to debit the financial institution's Master Account on the 31st day after the date of the

NOTICE OF DIRECT DEBIT (RECLAMATION). The Federal Reserve Bank will provide advice of the debit to the reclamation debtor. If the appropriate Federal Reserve Bank is unable to debit a reclamation debtor's Master Account, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and § 240.11.

* * * * *

Dated: September 12, 2011.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2011–23896 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0868]

RIN 1625–AA11

Regulated Navigation Area; Route 24 Bridge Construction, Tiverton and Portsmouth, RI

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a regulated navigation area (RNA) on the navigable waters of the Sakonnet River under and surrounding construction of the new Route 24 bridge that crosses the Sakonnet River between Tiverton and Portsmouth, Rhode Island. This rule implements certain safety measures including establishment of a temporary channel beneath the bridge, speed restrictions, and suspension of all vessel traffic within the RNA during construction operations that could pose an imminent hazard to vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during construction of the Route 24 bridge over the main channel of the Sakonnet River.

DATES: This rule is effective on September 19, 2011 until 11:59 p.m. on May 1, 2013. This rule is effective with actual notice for purposes of enforcement from 8 a.m. on September 9, 2011, until 11:59 p.m. on May 1, 2013. Public comments may be submitted throughout the effective period.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0868 using any one of the following methods:

- *Federal e-Rulemaking Portal: 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:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0868 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0868 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 Mr. Edward G. LeBlanc, Chief of the Waterways Management Division, U.S. Coast Guard Sector Southeastern New England; telephone 401–435–2351, e-mail *Edward.G.LeBlanc@uscg.mil,* or Lieutenant Junior Grade Isaac Slavitt, Coast Guard First District Waterways Management Branch, telephone 617–223–8385, e-mail *Isaac.M.Slavitt@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

As this temporary interim rule will be in effect before the end of the comment period, the Coast Guard will evaluate and revise this rule as necessary to address significant public comments.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0868), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2011–0868'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0868'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting in connection with the public comment period for this interim rule. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Although they were not held specifically to solicit public comments on this interim rule and were not announced in the **Federal Register**, the Coast Guard has held or participated in several locally announced informal waterway user meetings, including a Rhode Island Port Safety Forum on August 11, 2011, attended by approximately 70 people, an on-site meeting with local elected and appointed officials on August 17, 2011, and a locally advertised, informal meeting on August 24, 2011, attended by approximately 45 people.

Potential waterway closures, temporary channels, and navigation safety measures were discussed at these meetings. The temporary channel and navigation safety measures discussed at these meetings were generally well received by those in attendance. Stakeholder comments and concerns were identified and many have been incorporated into this regulation. To view the stakeholder comments see the meeting minutes in the docket.

Regulatory Information

The Coast Guard is issuing this interim rule without prior **Federal Register** notice 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 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. The need for waterway closures was not brought to the attention of the Coast Guard until July 14, 2011, when the Rhode Island Department of Transportation (RI DOT) requested a complete waterway closure for a 30-day period beginning August 14, 2011.

The Coast Guard discussed with RI DOT a number of alternatives to complete waterway closure, including delaying this portion of construction until after the traditional boating season, which ends around November 1 each year, or arranging the construction barges and cranes in a manner that leaves a portion of the main channel navigable, or scheduling work so that the main channel is clear for at least a block of hours each day. A delay until November 1 would risk construction complications from colder late autumn weather, and because construction barges and cranes are already in place, any delay would necessarily prolong the construction operation and increase its cost to the public. For engineering reasons, to allow the lifting of huge steel girders that will span the main channel, construction equipment must be placed across the entire channel. For each day that construction was delayed due to the inability to place equipment in the main channel, RI DOT estimated it would cost Rhode Island taxpayers $100,000. The Coast Guard and RI DOT, after consulting with local elected and appointed officials and harbormasters, concluded that allowing the construction equipment to obstruct the main channel, coupled with a temporary channel around the construction to be established by the Coast Guard, was the preferred alternative.

We were concerned that the waterway obstruction proposed by RI DOT might have a significant impact on waterway users, so it was necessary to move quickly to protect the safety of workers and the public, and facilitate construction during optimal weather conditions that were deemed by RI DOT as an engineering necessity. Because of the cost to the public of any construction delay, and because the imminence of the planned construction work left insufficient time for compliance with APA notice and comment procedures, it would have been contrary to the public interest and impracticable to follow those procedures before issuing this rule. Moreover, to the extent we had met with many of the persons most likely to be affected by the rule and we addressed many of their concerns in drafting this rule, following APA notice and comment procedures before issuing this rule was unnecessary. In order to address any further public concerns, this rule is available for subsequent public comment as long as it is in force, and if comments indicate a need to amend the rule, we will consider doing so.

For the same reasons, we also find that good cause exists, under 5 U.S.C. 553(d)(3), for making this rule effective less than 30 days after publication in the **Federal Register.**

Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to ensure the safety of waterway users, the public, and construction workers for the duration of the new Route 24 bridge construction over the main channel of the Sakonnet River during construction operations.

Discussion of Rule

This action is intended to control vessel traffic for the duration of the new Route 24 bridge construction over the main channel of the Sakonnet River. Construction is now underway and may last until May 1, 2013. The Coast Guard may close the regulated area described in this rule to all vessel traffic during any circumstance that poses an imminent threat to waterway users operating in the area. Complete waterway closures will be made with as much advance notice as possible.

During the period where the main channel of the Sakonnet River is obstructed and a temporary channel is established, both the aids to navigation marking the temporary channel and navigation safety measures will be published with the widest distribution among the affected segments of the public. Such means of notification will include, but is not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, and Marine Safety Information Bulletins distributed by e-mail to the local maritime community, including every person who attended the meetings noted above and who provided an e-mail address upon registering.

Entry into this RNA during a closure is prohibited unless authorized by the Sector Southeastern New England Captain of the Port (COTP). Any

violation of this RNA is punishable by civil and criminal penalties, in rem liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant-mariner credentials.

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.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

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 substantial number of small entities. This rule will affect the following entities some of which may be small entities: The owners or operators of local marinas and businesses (such as waterside restaurants), or vessels who intend to transit in the Sakonnet River beneath the new Route 24 bridge between September 9, 2011 and May 1, 2013.

This regulation may have some impact on small entities, but the potential impact will be minimized for the following reasons: Any temporary channel or other safety measures will allow most mariners to continue to transit the Sakonnet River beneath the new Route 24 bridge. Additionally, vessels can bypass the Sakonnet River by using an alternate route up through the East Passage of Narragansett Bay to reach a destination above the Route 24 Bridge. We expect that any complete closure of the RNA will be brief. We will use various appropriate means to inform the public before, during, and at the conclusion of any RNA enforcement period.

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. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call LT Judson Coleman, Prevention Department, Sector Long Island Sound, at 203–468–4596.

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

This 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 involves the establishing of a regulated navigation area and therefore falls within the categorical exclusion noted above. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. Any comments received concerning environmental impacts will be considered and changes made to the environmental analysis checklist and categorical exclusion determination as appropriate.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0868 to read as follows:

§ 165.T01–0868 Regulated Navigation Area; Route 24 Bridge Construction, Sakonnet River, Rhode Island.

(a) *Location.* The following area is a regulated navigation area: All navigable waters of the Sakonnet River between Tiverton and Portsmouth, RI, from surface to bottom, within 100 yards of the Route 24 bridge over the Sakonnet River.

(b) *Regulations.* The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply within the RNA, and in addition:

(1) Each person or vessel within the RNA must comply with the directions of the Captain of the Port Sector Southeastern New England (COTP) or the COTP's designated on-scene patrol personnel and must comply with all applicable regulations including but not limited to the Rules of the Road (33 CFR Subchapter E, Inland Navigational Rules);

(2) The COTP may close the RNA or establish a marked temporary channel within the RNA at any time to protect public safety;

(3) Each vessel using the temporary channel must not exceed 47 feet in height from the waterline, have a draft not exceeding 17 feet, and enter the temporary channel only if it is completely clear of all other vessel traffic; and

(4) Each vessel approaching the temporary channel and equipped with a VHF radio must make an appropriate ''Securite'' radio call to notify approaching vessel traffic;

(c) *Effective period; enforcement.* This section is effective from 8 a.m. on September 9, 2011, until 11:59 p.m. on May 1, 2013. Paragraph (b) of this section may be enforced at any time within that period. The COTP and designated on-scene patrol personnel will notify the public whenever paragraph (b) is in force and whenever enforcement is lifted. Notification may be by Broadcast Notice to Mariners, Local Notice to Mariners, Marine Safety Information Bulletins, or by siren, radio, flashing light, or other hailing by a Coast Guard vessel.

(d) *Violations.* Report violations of this regulated navigation area to the COTP at 508–457–3211 or on VHF–Channel 16.

Dated: September 7, 2011.

D.A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2011–23916 Filed 9–16–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2005–0084; FRL–9466–1]

RIN 2060–AQ74

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal of direct final rule.

SUMMARY: On June 12, 2008, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for the plating and polishing area source category under section 112 of the Clean Air Act (CAA). On June 20, 2011, the EPA proposed amendments to clarify that the emission control requirements of the plating and polishing area source NESHAP did not apply to any bench-scale activities. The amendments also made several technical corrections and clarifications that are not significant changes in the rule's requirements. In addition, on June 20, 2011, the EPA issued a direct final rule amending the area source standards for plating and polishing area sources. Since we received an adverse comment, we are withdrawing the direct final rule today simultaneously with this final rule.

DATES: This final rule is effective on October 19, 2011. Effective September 19, 2011, EPA withdraws the direct final rule published at 76 FR 35750 on June 20, 2011.

ADDRESSES:

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.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744,

and the telephone number for the Air and Radiation Docket is (202) 566–1742.

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SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Background Information
II. Summary of Comment and Response
III. Does this action apply to me?
IV. Where can I get a copy of this document?
V. Why are we amending this rule?
A. Clarification of Applicability for Bench-Scale Operations
B. Other Technical Corrections and Clarifications
VI. What are the changes to the area source NESHAP for plating and polishing operations?
VII. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Background Information

The EPA stated in the direct final rule titled, ''Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing'' which was published on June 20, 2011 (76 FR 35750) that if EPA received adverse comment by July 20, 2011, the direct final rule would not take effect and EPA would publish a timely withdrawal of the direct final rule in the **Federal Register**. The EPA subsequently received an adverse comment on the direct final rule.

Because EPA received an adverse comment, EPA is withdrawing the direct final rule titled ''Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Plating and Polishing.'' As stated in the parallel proposed rule (76 FR 35806) published on the same day as a direct final rule, EPA will not institute a second comment period in this proceeding concerning the Plating and Polishing Area Sources amendments addressed in the direct final and parallel proposed rules. EPA is addressing the adverse comment on the direct final rule and providing final notice of the amended rule concurrent with this withdrawal. This final rule is based on the parallel proposed rule and includes a summary of the comment received and the EPA response.

The amendments in this final rule clarify that the emission control requirements of the plating and polishing area source NESHAP do not apply to any bench-scale activities. Also, several technical corrections and clarifications that do not make significant changes in the rule's requirements have been made to the rule text. This rule amendment increases flexibility and freedom of choice for the public, and makes the rule more clear and intelligible which, as a result, reduces burden.

II. Summary of Comment and Response

The EPA received one comment concerning the amended rule.

Comment: One comment was received from a semiconductor wafer and photovoltaic (PV) cell manufacturer who performs electroless nickel plating onto silicon wafers in clean rooms or segregated manufacturing areas designed to limit contamination. The commenter stated that emissions from metalization during these semiconductor and PV manufacturing processes are too small to measure easily and consequently could not have been included in the 1990 inventory. Also, the commenter stated that semiconductor and PV facilities are not similar to the large scale plating and polishing operations to which the commenter believes the plating and polishing rule is intended to apply. The commenter requested that these small-scale semiconductor and PV manufacturing processes be exempted from the plating and polishing rule along with the bench-scale operations described in the proposed rule amendment.

Response: The semiconductor industry does both electroless and electrolytic plating, as stated in the materials submitted by the commenter. In both these plating processes, the concentration of plating HAP in the plating solution is high, with electroplating having a greater potential for air emissions than electroless plating. According to information available to the EPA, many facilities in the semiconductor industry were already controlling their HAP emissions at the time of the final rule for plating and polishing in 2008 by the control methods required by the plating and polishing area source rule. Although HAP emissions from many facilities in the semiconductor industry may be low, as the commenter describes, emissions from many other affected facilities under this rule, as well as other area source rules, are also low; hence their classification as area sources. The intent of the area source rules is to set standards for low-emitting sources with the potential to emit HAP and which are not major sources.

The semiconductor industry is very similar to other plating and polishing industries that do a high production volume of plating using solutions with high concentrations of metal HAP and, therefore, are the intended subjects of the rule. To the extent that sources in the semiconductor and PV manufacturing industry qualify as bench scale operations, they also may be exempt from the plating and polishing rule with as a result of this action. However, as individual industries, we believe that area sources in the semiconductor and PV manufacturing industries are the type of sources intended to be regulated under the area source program and, more specifically, under the plating and polishing rule for metal HAP. Therefore, no sources or classes of sources are being added to the exemption for bench-scale operations in today's action. Additionally, for electroless plating sources, the plating and polishing rule requires management practices for minimizing HAP emissions, as practicable, with no additional control requirements or annual reporting. Therefore, the burden of the rule on facilities similar to the commenter's is low, especially for facilities that are already well controlled.

III. Does this action apply to me?

The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code [1]	Examples of regulated entities
Industry	332813	Area source facilities engaged in any one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Regulated sources do not include chromium electroplating and chromium anodizing sources, as those sources are subject to 40 CFR part 63, subpart N, ''Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.''
Manufacturing	32, 33	Area source establishments engaged in one or more types of nonchromium electroplating; electropolishing; electroforming; electroless plating, including thermal metal spraying, chromate conversion coating, and coloring; or mechanical polishing of metals and formed products for the trade. Examples include: 33251, Hardware Manufacturing; 323111, Commercial Gravure Printing; 332116, Metal Stamping; 332722, Bolt, Nut, Screw, Rivet, and Washer Manufacturing; 332811, Metal Heat Treating; 332812, Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332913, Plumbing Fixture Fitting and Trim Manufacturing; Other Metal Valve and Pipe Fitting Manufacturing; 332999, All Other Miscellaneous Fabricated Metal Product Manufacturing; 334412, Bare Printed Circuit Board Manufacturing; 336412, Aircraft Engine and Engine Parts Manufacturing; and 339911, Jewelry (except Costume) Manufacturing.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility will be regulated by this action, you should examine the applicability criteria in 40 CFR 63.11475 of subpart WWWWWW (NESHAP: Area Source Standards for Plating and Polishing Operations). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in § 63.13 of the General Provisions to part 63 (40 CFR part 63, subpart A).

IV. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

V. Why are we amending this rule?

On July 1, 2008 (73 FR 37741), we issued the NESHAP for Area Sources: Plating and Polishing (40 CFR part 63, subpart WWWWWW). The final rule establishes air emission control requirements for new and existing facilities that are area sources of hazardous air pollutants. The final standards establish emission standards in the form of management practices for new and existing tanks, thermal spraying equipment, and dry mechanical polishing equipment in certain plating and polishing processes. These final emission standards reflect the EPA's determination regarding the generally achievable control technology (GACT) and/or management practices for the area source category.

In the time period since promulgation, it has come to our attention that certain aspects of the rule as promulgated have led to misinterpretations, inconsistencies, and confusion regarding the applicability of the rule. These amendments make several technical corrections and clarifications to the rule's text that will provide clarity.

In addition to fulfilling the mandate in CAA section 112, these amendments are also responsive to Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, which directs each Federal agency to ''periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' EPA's amended rule increases flexibility and freedom of choice for the public, and makes the rule more clear and intelligible which, as a result, reduces burden.

VI. What are the changes to the area source NESHAP for plating and polishing operations?

We are amending this rule to clarify and correct inconsistencies and inadequacies of the rule language that have come to our attention since promulgation. These items are discussed in this section. There is also a red-line version of the regulatory text in the docket that shows the effect of these changes on the promulgated rule.

A. Clarification of Applicability for Bench-Scale Operations

EPA is making these amendments to the NESHAP for plating and polishing operations that are area sources (40 CFR part 63, subpart WWWWWW) to clarify that the rule was not intended to apply to process units that are bench-scale operations.

Based on available inventory information, we believe that HAP emissions from bench-scale activities were not part of the 1990 baseline inventory for the urban air toxics program that supported the area source listing decision for this category. The plating and polishing category includes job shop operations dedicated to plating and polishing operations, and original equipment manufacturers with large-scale plating and polishing processes. We believe that this definition is also consistent with the basis of the listing of the plating and polishing source category in the 1990 air toxics inventory. Therefore, this amendment clarifies that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Further, our experience is that the types of plating and polishing operations that are bench-scale use small containers on the scale of 25 gallons or less, and any potential air emissions would be too low to measure. Bench-scale processes are defined in this final rule as: ''Any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.''

B. Other Technical Corrections and Clarifications

To clarify our intent in the rule and reduce misinterpretations that have come to our attention since the final rule was published in July 2008, we

have made certain clarifications and technical corrections to the rule text.

We are clarifying that certain process units and operations are not part of the affected activity, based on our knowledge of the area source inventory on which the source category description was derived. These processes include activities such as plating, polishing, coating or thermal spraying conducted to repair surfaces or equipment. Similarly, other EPA area source rules also do not include repair and maintenance activities at manufacturing facilities as affected operations for air pollution control purposes, such as area source regulations for Nine Metal Fabrication and Finishing source categories (40 CFR part 63, subpart XXXXXX).

In addition, we are clarifying the descriptions of standards and management practices to better reflect the industry and manufacturer's equipment operations. For example, in the standards and compliance requirements, the addition of wetting agents/fume suppressants to tank baths has been clarified to reflect manufacturers' specifications, including flexibility to the operator that may be provided in the specifications. We intended the requirements of the final rule to be consistent with practices conducted based on manufacturers' specifications. Definitions of operations and procedures were also corrected in order to clarify the scope of the rule, the affected processes, and make applicability and other definitions consistent within the rule. These are listed in the following paragraphs.

We are clarifying that certain operations were not part of the original urban air toxics inventory on which this source category was defined and, therefore, we are revising the regulatory text to clarify that these operations are not subject to the requirements of the rule, as described below.

We are clarifying that the affected operations do not include plating or polishing performed to repair equipment or for maintenance purposes. The final rule excluded repair operations performed with thermal spraying as a result of comments received after proposal. In the time period since the rule was promulgated, we learned that plating or coating was also done for repair purposes, usually with small paint brushes and not in tanks. Therefore, we have amended the rule to add ''any'' plating and polishing process as the types of repair processes which are not affected operations under the rule. This change is based on the original urban air toxics inventory on which the source category was defined.

We are clarifying that certain operations were intended to be part of the affected sources and, therefore, we are revising the regulatory text to clarify that these operations are subject to the requirements of the rule, as described below.

We are clarifying that thermal spraying is another process to which the requirements for dry mechanical polishing apply. The final rule stated that dry mechanical polishing was an affected process if performed after plating. Since thermal spraying is one of the plating and polishing processes used to plate metal onto surfaces, we intended to include dry mechanical polishing done after thermal spraying as an affected process, and are making that clarification in today's action.

We are also clarifying that language of the rule to reflect the fact that flame spraying, which is a different name for thermal spraying, is subject to the rule. We are also clarifying that thermal and flame spraying operations do not include spray painting at ambient temperatures. After promulgation of the final rule, we learned that flame spraying is another name for thermal spraying—both terms are used for an identical process. However, spray coating at room temperatures is another process entirely, with a different definition, and is already addressed under subpart HHHHHH of this part, which regulates spray painting and other similar spray coating processes performed without the use of heat or flame. Therefore, spray coating at room temperatures is not subject to the requirements of this rule.

In addition, we are making clarifications to the rule language to better describe certain rule requirements which have been misinterpreted since the time of promulgation. The following is a discussion of these items.

First, we are clarifying that although Material Safety Data Sheets (MSDS) may be used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process, MSDS are not required to be used and are not the only method to determine HAP content. Other methods include laboratory analysis or engineering estimate of the HAP content of the bath, which are also reliable indicators of HAP content. The reference to MSDS in the final rule was only intended to provide an example of readily available resources to determine the HAP content of materials used in plating and polishing and was not meant to be the exclusive method to be used. Therefore, we are amending the rule to clarify that these other methods are acceptable.

We are also clarifying that for plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish rather than the HAP content of the individual components, to better reflect the fact that HAP emissions are based on the concentration of HAP within the tank. The most important concentration of plating HAP as it relates to the potential for HAP to be emitted is the concentration of HAP within the tank. We received information after promulgation of the final rule demonstrating that measuring the concentration of pure ingredients in the pure form (''as added'') could misrepresent the HAP concentration within the tank for some platers. Therefore, in today's action we are amending the rule to also allow measurement of HAP content of the final solution within the tank to determine applicability to the rule. We are retaining the ''as added'' measurement point since this point provides a conservative value because the materials added will only be more dilute once they are placed in the tank, and because it may be easier to perform the measurement ''as added'' for some plating operations. Facilities may still use the HAP concentrations specified in the individual MSDS for each ingredient used in the tank to establish the total HAP content of the tank for the purposes of this rule.

We are clarifying that when facilities add wetting agent/fume suppressant to replenish the plating baths, they can add these ingredients in amounts such that the bath contents are returned to that of the original make-up of the bath and do not have to add the full amounts originally added on startup. Adding more wetting agent/fume suppressant than needed to return the bath contents to their original make-up will not necessarily reduce HAP emissions. This revision ensures that the concentration of the wetting agent/fume suppressant does not change. The wetting agent/fume suppressant concentration in the tank is one of the key features for proper plating as well as for emission control. However, adding more wetting agent/fume suppressant beyond the amount recommended by the manufacturer is not necessarily better for pollution control and in many cases could be detrimental to the plating process itself. Therefore, we are permitting the addition of smaller amounts of wetting agent than that original amount as long as the amount added brings the tank back to its original concentration of wetting agent/fume suppressant. We intended in the final rule that platers

maintain the concentration of wetting agent/fume suppressant as recommended by the manufacturer and this change today enables platers to add only the amount that is needed to maintain the correct concentration.

We are also clarifying the definition of startup of an affected plating or polishing bath to explain that startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time. The chemical make-up of the original tank bath is the key point in time at which startup of the tanks occurs, rather than the existence of electricity supplied to the tanks for heating, agitation, or other physical conditions. Therefore, we are revising the definition of the startup of tanks to specify that this startup is when the tank baths are originally created. If startup begins at the time electricity is delivered to the tank, this could lead to facilities refraining from turning off the power when the tanks are not in use to avoid startup requirements when the plating is resumed. This practice could lead to wasting of energy and possibly increases in air pollution as tanks remain heated or agitated for hours longer than needed. Therefore, by defining tank startup as the time of the original bath make-up, we are encouraging facilities to shut down the electricity to their tanks when not in use and eliminating unnecessary startup procedures to comply with the rule.

We are also adding ''cartridge'' filters as a type of filter that can fulfill the control requirement in all instances where the general category of ''filters'' are specified. Cartridge filters are a specific type of filter used in air pollution control that give the same performance as fabric filters in terms of particle control in, for example, dry mechanical polishing or thermal spraying. Cartridge filters are more compact than fabric filters and more useful in industrial machinery settings where space is limited. Therefore, we have added cartridge filters as a type of filter permitted as a control device under the rule.

We are also clarifying that the rule requirement to maintain and record the minimum amount of time that tank covers must be used is only applicable when covers are the sole method of complying with the GACT operating standards, and these requirements for recordkeeping do not apply when another method is used to comply with the GACT operating standards, or when covers are used as a management practice. The use of covers is a method of complying with the GACT operating standards for electroplating processes as well as for complying with the management practices for both electrolytic and electroless plating, and polishing operations. When covers are used as a management practice, there are no specific requirements under the rule for the amount of time or the amount of surface area coverage as there is for the GACT operating standards. Covers used for complying with the GACT operating standard are more critical to emission control and therefore need to have stricter time requirements, such as 95 percent of the plating time or, in the case of continuous plating, cover 75 percent of the surface area. Covers used as a management practice are used on processes where either control of emissions is not critical to pollution control due to low emissions, or where other methods of control are being used to meet the GACT requirements, such as wetting agents/fume suppressant. In many cases, covers are used as a management practice where the process does not allow the covers to be used for as much time or over as much surface area as the operating standards in the rule. Factors that can interfere in the use of covers for as long as needed to meet the GACT operating standard are, for example, processes where workers have to remove and load parts frequently. In this situation, another method of achieving the operating standard is used, such as wetting agents/fume suppressant. The use of covers for any part of the plating time, regardless of other controls or practices employed, is a management strategy for pollution prevention and is encouraged.

Therefore, we are clarifying that when covers are used as a management practice, facilities are not required to document the time the covers are in place in the same way as covers used for meeting the GACT operating standard. We are amending the rule today to make this point clear and to encourage pollution prevention achieved by the use of covers, in general.

We are also clarifying that limiting and recording the time of plating to fulfill the flash or short-term requirements in the rule is only applicable when facilities comply with the GACT standard of this subpart solely by limiting the plating time of the affected tank, and do not apply to plating done for short periods of time in general, where other methods are used to comply with the GACT standards. Tanks that perform plating for short periods of time, in general, are not required to use the GACT regulatory option of limiting and recording plating time to comply with the rule if another method of compliance is used.

Similar to the discussion above on the use of covers, if facilities with short-term plating use another method to comply with the rule, we encourage them to still keep their plating times short and, hence, minimize potential pollution. Therefore, we are clarifying that documentation is not required for the practice of short-term plating, in general, when another method of compliance with the rule is used.

We are clarifying that if a new affected source is started after July 1, 2008, an Initial Notification must be submitted upon startup. The final rule erroneously required the Initial Notification for new sources to be submitted after 120 days of startup of the process (§ 63.11509(a)(3) ''What are my notification, reporting, and recordkeeping requirements?'') as a result of a typographical error. Since we generally require initial notification for new sources upon startup, we have corrected the submittal date of the initial notification.

We are clarifying that if a facility makes a change to the methods of compliance with the standard, an amended Notification of Compliance Status should be submitted within 30 days of the change. Note that this does not apply to any changes in the listed management practices. This requirement is intended to ensure that the EPA is aware of changes in the process or controls that may affect HAP emissions and compliance with the rule. This notification can be in the form of the annual report already required under the rule. This additional requirement includes mailing the annual report (the preparation of which is already required), and should not occur for many facilities in the industry and will not be required frequently. Therefore we estimate that the burden of this additional requirement is negligible. Electronic notifications may be allowable by the air permit authorities or EPA regional representative in some states or regions.

We are also clarifying that the management practices apply to all affected plating and polishing operations, as practicable, not just affected plating tanks. In the final rule, the management practices were intended to apply to all plating and polishing operations under this subpart and this amendment corrects that applicability. The word ''plating'' as used in the promulgated rule was intended to be a short phrase to represent all plating and polishing operations. Although most of the management practices do apply to

tanks, there are others that apply to all plating and polishing sources, including: ''general good housekeeping,'' such as regular sweeping or vacuuming, if needed; ''periodic washdowns,'' as practicable; and ''regular inspections'' to identify leaks and other opportunities for pollution prevention. Therefore, we are clarifying that management practices apply to all plating and polishing operations.

We have also made corrections that were primarily typographical in nature, and added definitions for terms used in the rule that were not defined to clarify our original intent in the rule. The revised or added definitions to the rule are as follows (in alphabetical order): ''bath,'' ''bench-scale plating or polishing,'' ''conversion coatings,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''maintenance,'' ''major facility,'' ''metal coating operation,'' ''metal HAP content,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process tanks,'' ''repair,'' ''startup of the tank bath,'' and ''thermal spraying.''

Finally, we are updating Table 1 of the rule titled ''Applicability of General Provisions to Plating and Polishing Area Sources,'' to reflect changes in the General Provisions that have occurred since the rule was originally promulgated. Specifically, the previous provisions relating to startup, shutdown, and malfunctions have been removed, in light of the DC Circuit's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008). The emissions standards for plating and polishing area sources are expressed as management practices, and these management practice requirements can be met at all times. Therefore, exempting sources from meeting these standards during periods of startup, shutdown, and malfunction is not appropriate.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

This action is responsive to Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76 FR 3821, January 21, 2011), which directs each Federal agency to review existing significant regulations to determine whether any regulations should be modified, streamlined, expanded, or repealed so as to make the EPA's regulatory program more effective or less burdensome in achieving the regulatory objectives. This amended rule increases flexibility and freedom of choice for the regulated community, and makes the rule more clear and intelligible which, as a result, reduces burden.

B. Paperwork Reduction Act

This action does not impose any new information collection burden therefore no new information collection request has been prepared. These final amendments clarify that the emission control requirements of the plating and polishing area source rule do not apply to bench-scale activities. Also, several technical corrections and clarifications that do not make material changes in the rule's requirements have been made to the rule text. No new burden is associated with these requirements because the burden was included in the approved information request (ICR) for the existing rule. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart WWWWWW) under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has been assigned OMB control number control number 2060–0623. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 500 employees for NAICS code 332813); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that the small entities in this area source category will not incur any adverse impacts because this action makes only technical corrections and clarifications that increase flexibility and does not create any new requirements or burdens. No costs are associated with these amendments to the NESHAP.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or Tribal governments or the private sector. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector. The term ''enforceable duty'' does not include duties and conditions in voluntary Federal contracts for goods and services. Thus, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national

government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on state and local governments. Thus, Executive Order 13132 does not apply to the final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This final action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 6, 2000). This final rule makes certain technical corrections and clarifications to the NESHAP for plating and polishing area sources. These final corrections and clarifications do not impose requirements on Tribal governments. They also have no direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for plating and polishing area sources which is based solely on technology performance.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the agency does not use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this final rule do not change the level of control required by the NESHAP.

K. Congressional Review Act

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 Congress and to the Comptroller General of the United States. EPA will submit a report containing these final rule amendments 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 final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule will be effective on October 19, 2011.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 12, 2011.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

■ 2. Section 63.11504 is amended as follows:
■ a. By revising paragraph (a)(1)(iv); and
■ b. By revising paragraph (a)(2) to read as follows:

§ 63.11504 Am I subject to this subpart?

(a) * * *

(1) * * *

(iv) Dry mechanical polishing of finished metals and formed products after plating or thermal spraying.

* * * * *

(2) A plating or polishing facility is an area source of HAP emissions, where an area source is any stationary source or group of stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more and any combination of HAP at a rate of 22.68 Mg/yr (25 tpy) or more.

* * * * *

■ 3. Section 63.11505 is amended as follows:
■ a. By revising paragraph (d)(4);
■ b. By revising paragraph (d)(5); and
■ c. By revising paragraph (d)(6) to read as follows:

§ 63.11505 What parts of my plant does this subpart cover?

* * * * *

(d) * * *

(4) Plating, polishing, coating, or thermal spraying conducted to repair surfaces or equipment.

(5) Dry mechanical polishing conducted to restore the original finish to a surface.

(6) Any plating or polishing process that uses process materials that contain

cadmium, chromium, lead, or nickel (as the metal) in amounts less than 0.1 percent by weight, or that contain manganese in amounts less than 1.0 percent by weight (as the metal), as used. Information used to determine the amount of plating and polishing metal HAP in materials used in the plating or polishing process may include information reported on the Material Safety Data Sheet for the material, but is not required. For plating or polishing tanks, the HAP content may be determined from the final bath contents ''as used'' to plate or to polish.

* * * * *

■ 4. Section 63.11507 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text;

■ b. By revising paragraph (a)(1)(ii);

■ c. By revising paragraph (d)(1);

■ d. By revising paragraph (e);

■ e. By revising paragraph (f)(1); and

■ f. By revising paragraph (f)(2) to read as follows:

§ 63.11507 What are my standards and management practices?

(a) * * *

(1) You must use a wetting agent/fume suppressant in the bath of the affected tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' and according to paragraphs (a)(1)(i) through (iii) of this section.

* * * * *

(ii) You must add wetting agent/fume suppressant in proportion to the other bath chemistry ingredients that are added to replenish the bath, as in the original make-up of the bath, or in proportions such that the bath contents are returned to that of the original make-up of the bath.

(d) * * *

(1) You must measure and record the pH of the bath upon startup of the bath, as defined in § 63.11511, ''What definitions apply to this subpart?'' No additional pH measurements are required.

* * * * *

(e) If you own or operate an affected new or existing dry mechanical polishing machine that emits one or more of the plating and polishing metal HAP, you must operate a capture system that captures particulate matter (PM) emissions from the dry mechanical polishing process and transports the emissions to a cartridge, fabric, or high efficiency particulate air (HEPA) filter, according to paragraphs (e)(1) and (2) of this section.

* * * * *

(f) * * *

(1) For existing permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to a water curtain, fabric filter, cartridge, or HEPA filter, according to paragraphs (f)(1)(i) and (ii) of this section.

* * * * *

(2) For new permanent thermal spraying operations, you must operate a capture system that collects PM emissions from the thermal spraying process and transports the emissions to a fabric, cartridge, or HEPA filter, according to paragraphs (f)(2)(i) and (ii) of this section.

* * * * *

■ 5. Section 63.11508 is amended as follows:

■ a. By revising paragraph (c)(3) introductory text;

■ b. By revising paragraph (c)(4) introductory text;

■ c. By revising paragraph (c)(5) introductory text;

■ d. By revising paragraph (c)(6) introductory text;

■ e. By revising paragraph (c)(7)(i);

■ f. By revising paragraph (c)(9)(i);

■ g. By revising paragraph (c)(10)(i);

■ h. By revising paragraph (d)(3)(ii) introductory text;

■ i. By revising paragraph (d)(3)(ii)(A);

■ j. By revising paragraph (d)(5) introductory text;

■ k. By revising paragraph (d)(6) introductory text; and

■ l. By revising paragraph (d)(7) introductory text to read as follows:

§ 63.11508 What are my compliance requirements?

* * * * *

(c) * * *

(3) If you own or operate an affected batch electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and which is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you use a tank cover, as defined in § 63.11511, to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(3)(i) through (iv) of this section.

* * * * *

(4) If you own or operate an affected continuous electrolytic process tank, as defined in § 63.11511, ''What definitions apply to this subpart?'' that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you cover the tank surface to comply with § 11507(a), (b) or (c) of this subpart, you must demonstrate initial compliance according to paragraphs (c)(4)(i) through (iv) of this section.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must demonstrate initial compliance according to paragraphs (c)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate initial compliance according to paragraphs (c)(6)(i) through (iv) of this section.

* * * * *

(7) * * *

(i) You must report in your Notification of Compliance Status the pH of the bath solution that was measured at startup, as defined in § 63.11511, according to the requirements of § 63.11507(d)(1).

* * * * *

(9) * * *

(i) You must install a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a water curtain, or a cartridge, fabric, or HEPA filter.

* * * * *

(10) * * *

(i) You must install and operate a control system that is designed to capture PM emissions from the thermal spraying operation and exhaust them to a cartridge, fabric, or HEPA filter.

* * * * *

(d) * * *

(3) * * *

(ii) For tanks where the wetting agent/fume suppressant is a separate ingredient from the other tank additives, you must demonstrate continuous compliance according to paragraphs (d)(3)(ii) (A) and (B) this section.

(A) You must add wetting agent/fume suppressant in proportion to the other

bath chemistry ingredients that are added to replenish the tank bath, as in the original make-up of the tank; or in proportion such that the bath is brought back to the original make-up of the tank.

* * * * *

(5) If you own or operate an affected flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time for the affected tank, you must demonstrate continuous compliance according to paragraphs (d)(5)(i) through (iii) of this section.

* * * * *

(6) If you own or operate an affected batch electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' or a flash or short-term electroplating tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(b), and you comply with § 11507(a), (b) or (c) of this section by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(6)(i) through (iii) of this section.

* * * * *

(7) If you own or operate an affected continuous electrolytic process tank that contains one or more of the plating and polishing metal HAP and is subject to the requirements in § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must demonstrate continuous compliance according to paragraphs (d)(7)(i) and (ii) of this section.

* * * * *

■ 6. Section 63.11509 is amended as follows:

■ a. By revising paragraph (a)(4);

■ b. By revising paragraph (b) introductory text;

■ c. By adding new paragraph (b)(3);

■ d. By revising paragraph (c)(3);

■ e. By revising paragraph (c)(4);

■ f. By revising paragraph (c)(5); and

■ g. By revising paragraph (c)(6) to read as follows:

§ 63.11509 What are my notification, reporting, and recordkeeping requirements?

(a) * * *

(4) If you startup your new affected source after July 1, 2008, you must submit an Initial Notification when you become subject to this subpart.

(b) If you own or operate an affected source, you must submit a Notification of Compliance Status in accordance with paragraphs (b)(1) through (3) of this section.

* * * * *

(3) If a facility makes a change to any items in (b)(2)(i), iii, and (iv) of this section that does not result in a deviation, an amended Notification of Compliance Status should be submitted within 30 days of the change.

(c) * * *

(3) If you own or operate an affected flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by limiting the plating time of the affected tank, you must state in your annual compliance certification that you have limited short-term or flash electroplating to no more than 1 cumulative hour per day or 3 cumulative minutes per hour of plating time.

(4) If you own or operate an affected batch electrolytic process tank that is subject to the requirements of § 63.11507(a) or a flash or short-term electroplating tank that is subject to the requirements in § 63.11507(b), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have operated the tank with the cover in place at least 95 percent of the electrolytic process time.

(5) If you own or operate an affected continuous electrolytic process tank that is subject to the requirements of § 63.11507(a), ''What are my standards and management practices?'' and you comply with § 11507(a), (b) or (c) of this subpart by operating the affected tank with a cover, you must state in your annual certification that you have covered at least 75 percent of the surface area of the tank during all periods of electrolytic process operation.

(6) If you own or operate an affected tank or other affected plating and polishing operation that is subject to the management practices specified in § 63.11507(g), ''What are my standards and management practices?'' you must state in your annual compliance certification that you have implemented the applicable management practices, as practicable.

* * * * *

■ 7. Section 63.11511 is amended by:

■ a. Adding, in alphabetical order, new definitions of ''bench-scale,'' ''conversion coatings,'' ''filters,'' ''major facility for HAP,'' ''maintenance,'' ''metal HAP content of material used in plating and polishing,'' ''repair,'' and ''startup of the tank bath''; and

■ b. Revising the definitions of ''bath,'' ''dry mechanical polishing,'' ''electropolishing,'' ''fabric filter,'' ''flash electroplating,'' ''metal coating operation,'' ''non-electrolytic plating,'' ''plating and polishing facility,'' ''plating and polishing metal HAP,'' ''plating and polishing process tanks,'' and ''thermal spraying.''

§ 63.11511 What definitions apply to this subpart?

* * * * *

Bath means the liquid contents of a tank, as defined in this section, which is used for electroplating, electroforming, electropolishing, or other metal coating processes at a plating and polishing facility.

Bench-scale means any operation that is small enough to be performed on a bench, table, or similar structure so that the equipment is not directly contacting the floor.

* * * * *

Conversion coatings are coatings that form a hard metal finish on an object when the object is submerged in a tank bath or solution that contains the conversion coatings. Conversion coatings for the purposes of this rule include coatings composed of chromium, as well as the other plating and polishing metal HAP, where no electrical current is used.

* * * * *

Dry mechanical polishing means a process used for removing defects from and smoothing the surface of finished metals and formed products after plating or thermal spraying with any of the plating and polishing metal HAP, as defined in this section, using automatic or manually-operated machines that have hard-faced abrasive wheels or belts and where no liquids or fluids are used to trap the removed metal particles. The affected process does not include polishing with use of pastes, liquids, lubricants, or any other added materials.

* * * * *

Electropolishing means an electrolytic process performed in a tank after plating that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a work piece is attached to an anode immersed in a bath, and the metal substrate is dissolved electrolytically, thereby removing the surface contaminant;

electropolishing is also called electrolytic polishing. For the purposes of this subpart, electropolishing does not include bench-scale operations.

Fabric filter means a type of control device used for collecting PM by filtering a process exhaust stream through a filter or filter media. A fabric filter is also known as a baghouse.

Filters, for the purposes of this part, include cartridge, fabric, or HEPA filters, as defined in this section.

Flash electroplating means an electrolytic process performed in a tank that uses or emits any of the plating and polishing metal HAP, as defined in this section, and that is used no more than 3 cumulative minutes per hour or no more than 1 cumulative hour per day.

* * * * *

Maintenance is any process at a plating and polishing facility that is performed to keep the process equipment or the facility operating properly and is not performed on items to be sold as products.

Major facility for HAP is any facility that emits greater than 10 tpy of any HAP, or that emits a combined total of all HAP of over 25 tpy, where the HAP used to determine the total facility emissions are not restricted to only plating and polishing metal HAP or from only plating and polishing operations.

* * * * *

Metal coating operation means any process performed either in a tank that contains liquids or as part of a thermal spraying operation, that applies one or more plating and polishing metal HAP, as defined in this section, to the surface of parts and products used in manufacturing. These processes include but are not limited to: non-chromium electroplating; electroforming; electropolishing; non-electrolytic metal coating processes, such as chromate conversion coating, electroless nickel plating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and thermal or flame spraying.

Metal HAP content of material used in plating and polishing is the HAP content as determined from an analysis or engineering estimate of the HAP contents of the tank bath or solution, in the case of plating, metal coating, or electropolishing; or the HAP content of the metal coating being applied in the case of thermal spraying. Safety data sheet (SDS) information may be used in lieu of testing or engineering estimates but is not required to be used.

* * * * *

Non-electrolytic plating means a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which metallic ions in a plating bath or solution are reduced to form a metal coating at the surface of a catalytic substrate without the use of external electrical energy. Non-electrolytic plating is also called electroless plating. Examples include chromate conversion coating, nickel acetate sealing, electroless nickel plating, sodium dichromate sealing, and manganese phosphate coating.

* * * * *

Plating and polishing facility means a facility engaged in one or more of the following processes that uses or emits any of the plating and polishing metal HAP, as defined in this section: electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating); electroless plating; other non-electrolytic metal coating processes performed in a tank, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; thermal spraying; and the dry mechanical polishing of finished metals and formed products after plating or thermal spraying. Plating is performed in a tank or thermally sprayed so that a metal coating is irreversibly applied to an object. Plating and polishing does not include any bench-scale processes.

Plating and polishing metal HAP means any compound of any of the following metals: cadmium, chromium, lead, manganese, and nickel, or any of these metals in the elemental form, with the exception of lead. Any material that does not contain cadmium, chromium, lead, or nickel in amounts greater than or equal to 0.1 percent by weight (as the metal), and does not contain manganese in amounts greater than or equal to 1.0 percent by weight (as the metal), as reported on the Material Safety Data Sheet for the material, is not considered to be a plating and polishing metal HAP.

Plating and polishing process tanks means any tank in which a process is performed at an affected plating and polishing facility that uses or has the potential to emit any of the plating and polishing metal HAP, as defined in this section. The processes performed in plating and polishing tanks include the following: electroplating processes other than chromium electroplating (*i.e.,* non-chromium electroplating) performed in a tank; electroless plating; and non-electrolytic metal coating processes, such as chromate conversion coating, nickel acetate sealing, sodium dichromate sealing, and manganese phosphate coating; and electropolishing. This term does not include tanks containing solutions that are used to clean, rinse or wash parts prior to placing the parts in a plating and polishing process tank, or subsequent to removing the parts from a plating and polishing process tank. This term also does not include any bench-scale operations.

* * * * *

Repair means any process used to return a finished object or tool back to its original function or shape.

* * * * *

Startup of the tank bath is when the components or relative proportions of the various components in the bath have been altered from the most recent operating period. Startup of the bath does not include events where only the tank's heating or agitation and other mechanical operations are turned back on after being turned off for a period of time.

* * * * *

Thermal spraying (also referred to as metal spraying or flame spraying) is a process that uses or emits any of the plating and polishing metal HAP, as defined in this section, in which a metallic coating is applied by projecting heated, molten, or semi-molten metal particles onto a substrate. Commonly-used thermal spraying methods include high velocity oxy-fuel (HVOF) spraying, flame spraying, electric arc spraying, plasma arc spraying, and detonation gun spraying. This operation does not include spray painting at ambient temperatures.

■ 8. Table 1 to Subart WWWWWW of Part 63 is revised to read as follows:

TABLE 1 TO SUBPART WWWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PLATING AND POLISHING AREA SOURCES

Citation	Subject
63.1[1]	Applicability.
63.2	Definitions.
63.3	Units and abbreviations.

TABLE 1 TO SUBPART WWWWWW OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO PLATING AND POLISHING AREA SOURCES—Continued

Citation	Subject
63.4	Prohibited activities.
63.6(a), (b)(1)–(b)(5), (c)(1), (c)(2), (c)(5), and (j)	Compliance with standards and maintenance requirements.
63.10(a), (b)(1), (b)(2)(i)–(iii), (xiv), (b)(3), (d)(1), (f)	Recordkeeping and reporting.
63.12	State authority and delegations.
63.13	Addresses of State air pollution control agencies and EPA regional offices.
63.14	Incorporation by reference.
63.15	Availability of information and confidentiality.

[1] Section 63.11505(e), "What parts of my plant does this subpart cover?", exempts affected sources from the obligation to obtain title V operating permits.

[FR Doc. 2011–23806 Filed 9–16–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 95–91; FCC 10–82]

Establishment of Rules and Policies for the Satellite Digital Audio Radio Service in the 2310–2360 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rules; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements contained in the Satellite Digital Audio Radio Service (SDARS) Second Report and Order. The information collection requirements were approved on July 5, 2011 by OMB.

DATES: The amendments to 47 CFR 25.144(e)(3), 25.144(e)(8), 25.144(e)(9), 25.263(b) and 25.263(c), published at 75 FR 45058, August 2, 2010, are effective on September 19, 2011.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams on (202) 418–2918 or via e-mail to: *cathy.williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that on July 5, 2011 OMB approved, for a period of three years, the information collection requirements contained in 47 CFR 25.144 and 25.263. The Commission publishes this document to announce the effective date of these rule sections. *See* Satellite Digital Audio Radio Service (SDARS) Second Report and Order (FCC 10–82; IB Docket No. 95–91), 75 FR 45058, August 2, 2010.

Synopsis

As required by the Paperwork Reduction Act of 1995, (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on July 5, 2011, for the information collection requirement contained in 47 CFR 25.144 and 25.263. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, 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 that does not display a valid OMB Control Number.

The OMB Control Number is 3060–1153 and the total annual reporting burdens for respondents for this information collection are as follows:

Title: Satellite Digital Audio Radio Service (SDARS).

Form Number: Not applicable.

Type of Review: New collection.

OMB Control Number: 3060–1153.

OMB Approval Date: 07/05/2011.

OMB Expiration Date: 07/31/2014.

Respondents: Business or other for-profit entities.

Number of Respondents: 1 respondent; 74 responses.

Estimated Time per Response: 4–12 hours

Frequency of Response: On occasion filing requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of SDARS applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience, and necessity. The statutory authority for this information collection is contained in Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, and 47 U.S.C. 154, 301, 302a, 303, 307, 309, and 332.

Total Annual Burden: 400 hours.

Annual Cost Burden: $171,320.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On May 20, 2010, the Commission adopted and released a Second Report and Order titled, ''In the Matter of Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band,'' IB Docket No. 95–91, GEN Docket No. 90–357, RM–8610, 25 FCC Rcd 11710 (2010). In this Second Report and Order, the Commission adopted a framework for the regulation of SDARS terrestrial repeaters. First, the Commission adopted technical rules governing the operation of SDARS repeaters that will not unduly constrain the deployment of SDARS repeaters, but that will, at the same time, limit the potential for harmful interference to adjacent spectrum users in the Wireless Communications Service (WCS). Second, the Commission adopted a blanket-licensing regime to facilitate the flexible deployment of SDARS repeaters, which are necessary to ensure a high quality service to the public, while ensuring that such repeater operations comply with the Commission's rules regarding RF safety, antenna marking and lighting, and equipment authorization, as well as with international agreements. The Commission adopted a site-by-site licensing regime for repeater operations that did not qualify for blanket licensing. Finally, the Commission addressed other issues regarding SDARS repeater operations that are not associated with the interference concerns raised by WCS licensees. Specifically, the Commission adopted rules to ensure that SDARS repeaters remain truly complementary to a satellite-based service, and that SDARS

terrestrial repeaters are not used to transmit local programming or advertising.

47 CFR 25.144(e)(3)—SDARS licensee shall, before deploying any new, or modifying any existing, terrestrial repeater, notify potentially affected WCS licensees pursuant to the procedure set forth in 25.263.

47 CFR 25.144(e)(8)—SDARS licensees must file an earth station application using Form 312 to obtain blanket authority for terrestrial repeaters operating at 12 kW EIRP (average) or less and in compliance with FCC rules; application must include certain parameters of operation and a certification that the proposed SDARS terrestrial repeater operations will comply with all the rules adopted for such operations.

47 CFR 25.144(e)(9)—The operation of non-compliant repeaters and/or repeaters operating above 12 kW EIRP (average) must be applied for and authorized under individual site-by-site licenses using Form 312 and appropriate waiver of the Commission's rules.

47 CFR 25.263(b)—SDARS licensees are required to provide informational notifications as specified in 25.263, including requirement that SDARS licensees must share with WCS licensees certain technical information at least 10 business days before operating a new repeater, and at least 5 business days before operating a modified repeater.

47 CFR 25.263(c); Recordkeeping/ Third party disclosure—SDARS licensees operating terrestrial repeaters must maintain an accurate and up-to-date inventory of terrestrial repeaters operating above 2 W EIRP, including the information set forth in 25.263(c)(2) for each repeater, which shall be made available to the Commission upon request. Requirement can be satisfied by maintaining inventory on a secure Web site that can be accessed by authorized Commission staff.

Not codified (para. 278 of Order)—SDARS licensees must provide potentially affected WCS licensees with an inventory of their terrestrial repeater infrastructure.

Federal Communications Commission.

Avis Mitchell,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23846 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

49 CFR Parts 37 and 38

[Docket OST–2006–23985]

RIN 2105–AD54

Transportation for Individuals With Disabilities at Intercity, Commuter, and High Speed Passenger Railroad Station Platforms; Miscellaneous Amendments

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Department is amending its Americans with Disabilities Act (ADA) regulations to require intercity, commuter, and high-speed passenger railroads to ensure, at new and altered station platforms, that passengers with disabilities can get on and off any accessible car of the train. Passenger railroads must provide level-entry boarding at new or altered stations in which no track passing through the station and adjacent to platforms is shared with existing freight rail operations. For new or altered stations in which track passing through the station and adjacent to platforms is shared with existing freight rail operations, passenger railroads will be able to choose among a variety of means to meet a performance standard to ensure that passengers with disabilities can access each accessible train car that other passengers can board at the station. These means include providing car-borne lifts, station-based lifts, or mini-high platforms. The Department will review a railroad's proposed method to ensure that it provides reliable and safe services to individuals with disabilities in an integrated manner. The rule also codifies the existing DOT mechanism for issuing ADA guidance, modifies provisions concerning the carriage of wheelchairs, and makes minor technical changes to the Department's ADA rules.

DATES: This rule is effective October 19, 2011.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 1200 New Jersey Avenue, SE., Room 94–102, Washington, DC 20590. (202) 366–9306 (voice); (202) 366–7687 (TDD), *bob.ashby@dot.gov* (e-mail). You may also contact Bonnie Graves, in the Office of Chief Counsel, Federal Transit Administration, same mailing address, Room E56–306 (202–366–0944), e-mail *bonnie.graves@dot.gov;* and Linda Martin, of the Office of Chief Counsel, Federal Railroad Administration, same mailing address, room W31–304 (202–493–6062), e-mail *linda.martin@dot.gov.*

SUPPLEMENTARY INFORMATION: This rule makes final a variety of changes to the Department's ADA rules based on a notice of proposed rulemaking (NPRM) issued February 27, 2006 (71 FR 9761) and the over 360 comments to the NPRM. Comments came primarily from members of the transportation industry and the disability community. In addition, the Department held a public meeting on August 20, 2010, that resulted in in-person comments from transportation industry and disability community representatives and additional written comments. Generally, speakers at the public meeting and post-meeting written comments reiterated points made during the principal comment period on the NPRM.

The final rule modifies the NPRM's approach to ensuring nondiscriminatory access to rail service by establishing a performance standard that passenger railroads would have to meet at new and altered station platforms. The final rule does not require passenger railroads to retrofit existing platforms. The performance standard requires that passenger railroads ensure that passengers with disabilities can get on and off any accessible car that is available to passengers at a station platform. At stations where track adjacent to platforms is not shared with existing freight service, railroads must provide level-entry boarding. At stations where track adjacent to platforms is shared with freight railroads, passenger railroads can meet the performance standard through a variety of means, including level-entry boarding, car-borne lifts, portable station-based lifts, or mini-high platforms (with trains making multiple stops at such platforms when necessary). Passenger railroads that choose not to provide level-entry boarding at new or altered station platforms must get concurrence from the Federal Transit Administration (FTA) or Federal Railroad Administration (FRA) (or both, as the situation may warrant) for the means they choose to meet the performance standard. As part of this process, railroads would have to show how the means they chose to meet the performance standard ensured the reliability and safety of integrated service to passengers with disabilities.

In other provisions of the final rule, the Department has codified the existing Disability Law Coordinating Council (DLCC) as the Department's means of coordinating ADA guidance. The final rule also modifies the provisions of the

rule concerning transport of wheelchairs on transit providers' vehicles. In addition, the final rule makes minor technical updates and changes to provisions of 49 CFR parts 37 and 38.

The NPRM also proposed to add language, parallel to that in Department of Justice (DOJ) regulations, requiring transit providers to make reasonable modifications to policies and procedures in order to ensure nondiscriminatory service to persons with disabilities. In order to avoid delaying issuance of a final rule concerning nondiscriminatory access to rail cars while the Department continues to work on a regulatory evaluation on the reasonable modification proposal, the Department has deferred issuance of a final reasonable modification rule at this time. The Department is continuing to work on a final rule on this subject.

The following portion of the preamble discusses each of the issues involved in this final rule:

Access to Rail Cars at New or Altered Station Platforms

NPRM

The NPRM proposed that, at new or altered platforms in intercity and commuter rail stations, rail operators would have to ensure that passengers with disabilities would be able to board any car of the train that was made available for boarding to the general public. The NPRM would have required that railroads use level-entry boarding as the preferred means of ensuring nondiscriminatory access. In level-entry boarding, the height of the platform and the door height of the passenger car are aligned so that a passenger using a wheelchair can seamlessly move from one to the other (usually with the assistance of a bridge plate). Only if the rail operator could demonstrate that this approach was infeasible (*e.g.,* because of excessive curvature of the track at the station), could the rail operator use other solutions, such as lifts or mini-high platforms. The Department said in the NPRM that ''the accessibility solution that provides service in the most integrated setting should be chosen'' (71 FR 9764).

This proposal was made to ensure adherence to a basic norm of disability nondiscrimination law: that service be provided in the most integrated setting feasible. This principle is violated in any situation in which a railroad operator effectively limits people with disabilities to use of fewer accessible cars than are available to other passengers. The Department emphasized in the NPRM that this requirement was intended to apply only to new or altered stations, and the NPRM did not propose to require retrofit of existing stations for the purpose of providing level-entry boarding.

Comments

Disability community commenters unanimously supported the Department's proposal. In the absence of such a provision, they said, passengers with disabilities would be denied integrated service, instead often being confined to a single car, unlike other passengers. Accessibility approaches that limited access to a single car (sometimes referred to in comments as the ''cattle car'' approach) were unacceptable and discriminatory, they said. Level-entry boarding, disability community commenters said, was by far the most satisfactory solution, since it provided direct access to rail cars, while minimizing the chance of problems caused by malfunctioning or poorly-maintained equipment or ill-trained or unavailable employees. Among other means of access, these commenters generally preferred car-borne lifts to station-based lifts, because the latter were viewed as less reliable, safe, and secure.

Railroad industry commenters were just as unanimous in opposing the NPRM proposal. They cited a variety of reasons for their opposition. Many commenters assumed that the proposal would require level-entry boarding to be instituted at all or almost all stations, necessitating retrofit at many existing stations. Based on this assumption, many commenters predicted enormous costs for what they believed the proposed requirement to be. These commenters opposed any retrofit requirements, a few suggesting a that level-entry boarding requirement apply only to wholly new systems. In addition, some of these commenters believed that the NPRM would require lifts or bridge plates to be deployed for every car at every station, further driving up personnel costs and delaying trains.

Many commenters, especially freight railroads, asserted that platforms providing level-entry boarding would interfere with the passage of freight cars through passenger stations, since the width of freight cars (especially so-called ''overdimensional'' cars, like those used to transport airframe components for aircraft manufacturers or large military items) could create conflicts with higher platforms. On Department of Defense ''STRACNET'' lines, commenters said, it was particularly important to avoid the conflicts between freight cars and platforms that the commenters believed would occur under the NPRM proposal. According to railroad commenters, some means that could avoid such conflicts, like gauntlet or bypass tracks or moveable platform edges, were impractical and/or too expensive. Many of these commenters preferred a platform no more than 8 inches above top of rail (ATR), a height that would never permit level-entry boarding.

A number of commenters pointed out that more than one passenger railroad may use a given platform (*e.g.,* Amtrak and a commuter railroad) and that, in many cases, the floor heights of the various railroads' equipment are different. It would not be possible, commenters said, to have level-entry boarding on the same platform if the door height of one type of car using the platform is 25 inches ATR and the door height of a second type of car using the platform is 17 inches ATR. Commenters pointed to wide variations in car door heights as precluding any uniform approach to level-entry boarding. Moreover, some commenters said, the height of a platform providing level-entry boarding could exacerbate problems for passengers resulting from wide horizontal gaps between the platform edge and the car.

Railroad industry commenters had a number of comments about accessibility equipment. Some said bridge plates with a slope of one inch in height for every eight inches in length were too steep to permit independent access for wheelchair access and would require staff assistance. For this reason and because of the need to cover wide horizontal gaps, there would need to be personnel available in a high level platform situation just as there would be if car-borne or station-based lifts were used, with attendant costs and potential dwell time delays. A number of railroads said that car-borne lifts were in use and had many advantages, such as being able to adjust and provide access to platforms of various heights. Some railroads rely on station-based lifts and stated that they are planning to order more of them. A number of railroad commenters supported the use of mini-high platforms, generally preferring to have only one such platform.

Some commenters preferred to make only one stop at such a platform while others were willing to make multiple stops, as needed. A number of commenters expressed concern about the provision of the NPRM saying that mini-high platforms and other platform obstructions should be at least six feet back from the platform edge, to avoid channeling passengers into a narrow,

unsafe space in front of the obstructions. These commenters said that a longer setback would make bridge plates impracticably long; that it was not always practicable to fit a six-foot setback into a platform, given stairways, columns, or other obstructions; or that a six-foot setback could create other safety problems.

Finally, some railroad commenters opposed the idea that passengers with disabilities should be able to access every car of a train that was available to other passengers. Some of these commenters said they were not aware of significant demand from riders to provide accessible boarding at each train car. Others cited concerns that they would need costly additions to staff, or that integrated service would lead to additional dwell time, interference with schedules, safety problems in evacuating passengers with disabilities if they were scattered among all the cars of the train, or difficulty in figuring out at which stations passengers with disabilities wanted to leave the train. Other commenters made legal arguments, such as that the NPRM stretched the concept of ''integrated setting'' too far or that Congress, by allowing railroads to meet rail car accessibility standards by having one accessible car per train, intended to limit railroads' obligation to serve disabled passengers to that one car.

DOT Response

If a railroad provides to people who cannot climb steps access to only one car in a multi-car train, it is not providing service in an integrated setting. Such service is segregated, not integrated. If Person A is a wheelchair user and Person B is ambulatory, denying A the opportunity to enter any accessible car of a train that B can enter is discriminatory and contrary to the requirements of disability access law.

Commenters' arguments that the ADA permits service to passengers with disabilities to be limited to a single car are not persuasive. At the time the ADA was enacted, Congress was aware that some railroads had legacy equipment that was inaccessible. While Congress required railroads to acquire only accessible new cars after the ADA went into effect, Congress did not wish to make railroads retrofit or replace large numbers of old, inaccessible cars. Consequently, Congress required that, by July 26, 1995, railroads provide at least one accessible car per train, while not having to make all existing cars accessible or obtain accessible replacement cars by that date. This was solely an interim equipment requirement, which virtually all U.S. intercity and commuter railroads have met. Meeting this equipment requirement does not negate the obligations of railroads, under the ADA and section 504, to provide service in a nondiscriminatory and integrated manner.

In large part because of the ADA requirement that all new cars meet these accessibility requirements (*i.e.,* compliance with the requirements of 49 CFR part 38, the Department's accessibility standards for transportation vehicles), a significant portion of cars on American railroads are now accessible. The point of the requirement to obtain accessible new rail cars is to make sure that ultimately each car on a train is accessible to and usable by people with disabilities, including those who cannot climb steps. For a railroad to say to a passenger with a disability, in effect, that ''we have a car that meets accessibility requirements for use by passengers with disabilities but we will not provide any way of letting you use the accessible car'' would undermine the purpose of the requirement to obtain accessible cars.

Like the NPRM, the final rule requires operators to provide access only to accessible, available cars that people with disabilities are trying to access at a given station. If a train has eight accessible cars, and wheelchair users want to enter only cars 2 and 7 (see discussion of passenger notification below), then railroad personnel need to deploy lifts or bridge plates only at cars 2 and 7, not at the other cars. Concerns expressed in comments about the number of new personnel that would have to be hired appear to have been based on misunderstandings of this point. Similarly, the rule requires operators to provide access only to available cars at a station. If a train has eight accessible cars, but the platform only serves cars 1 through 6, then railroad personnel need to deploy lifts or bridge plates only at cars that people with disabilities are trying to access and that are available to all passengers. We would also point out that wheelchair positions on rail passenger cars are intended to serve wheelchair users, and railroad operators should take steps to ensure that these spaces are available for wheelchair users and not for other uses. For example, it would be contrary to this rule for a wheelchair user to be told that he or she could not use car 7 because the wheelchair spaces were filled with other passengers' luggage from a previous stop. We would also point out that railroads are not required to retrofit train cars, since railroads can choose among a variety of approaches to meet the performance standard.

In order to ensure that access was provided, passengers would have to notify railroad personnel. For example, if a passenger at a station wanted to use a station-based lift to access car 6, the passenger would request the use of car 6 and railroad personnel would deploy the lift at that car. Likewise, at a station using a mini-high platform, a passenger on this platform would inform train personnel that he or she wanted to enter car 5, whereupon the train would pull forward so that car 5 was opposite the mini-high platform. We contemplate that these requests would be made when the train arrives, and railroads could not insist on advance notice (*e.g.,* the railroad could not require a passenger to call a certain time in advance to make a ''reservation'' to use a lift to get on a particular car). As part of its submission to FTA or FRA, the railroad would describe the procedure it would use to receive and fulfill these requests.

The NPRM did not propose to require any stations to be retrofitted for level-entry boarding. The proposal concerning level-entry boarding was always forward-looking, intended to apply to stations constructed or altered after the rule went into effect. The final rule makes this point explicit. In addition, the NPRM did not propose to require level-entry boarding as a solution in every instance, permitting other solutions where level-entry boarding was infeasible. Consequently, comments projecting enormous costs based on the assumption that the NPRM proposed requiring extensive retrofitting of existing stations to provide level-entry boarding everywhere were based on a misunderstanding of the NPRM. Like the NPRM, the final rule applies to new construction and alterations and does not require retrofitting.

Many of the comments opposing level-entry boarding asserted that higher platforms would interfere with actual or potential freight movements. The FRA has reviewed these claims and has determined that while there could be some risk to a railroad employee riding on the bottom step of some freight equipment with platforms at the 15-inch level, this risk is normally addressed in the freight railroad's operating rules and would be taken into consideration during the review conducted by FRA for each new or altered platform. Having examined the dimensions of even the overwidth freight cars used to transport loads such as defense cargoes and airplane components, FRA found that there are no freight cars that would conflict with level-entry boarding platforms at 15–17 inches ATR. In the Northeast Corridor, where long-existing platforms are often 48 inches ATR,

solutions to overdimensional freight movements on shared track that passes through stations are already in place.

Nevertheless, it is clear from comments to the docket of this rulemaking that freight railroads are adamant that they will not permit passenger railroads to construct platforms more than 8 inches ATR adjacent to tracks they own and control and are shared with passenger railroads. The Department does not currently have legal tools to overcome this refusal. In particular, section 37.57 of the Department's ADA regulation, ''Required cooperation,'' applies to owners or persons in control of a station, not to owners or persons in control of track that passes through a station.

For this reason, and to avoid the potentially high costs of building gauntlet or bypass tracks at existing stations being altered, the Department is modifying the NPRM's proposal. The final rule will establish a performance standard: individuals with disabilities, including individuals who use wheelchairs, must have access to all accessible cars in each train using the station. This performance standard will apply at stations where construction or alteration of platforms begins 135 days or more after the rule goes into effect. The requirement is prospective, and section 37.42 does not require retrofit of existing stations (though compliance with existing disability nondiscrimination requirements not being altered in this final rule is still required). To meet this performance standard on lines or systems where track passing through stations and adjacent to platforms is shared with freight railroad traffic, passenger railroads that do not choose to provide level-entry boarding may, after obtaining FRA and/or FTA approval, use car-borne lifts, mini-high platforms (making multiple stops where necessary to accommodate passengers wishing to use different cars of the train), or portable station-based lifts.

On commuter, intercity, or high-speed rail lines or systems in which track passing through stations and adjacent to platforms is not shared with existing freight rail operations, the performance standard *must* be met by providing level-entry boarding to all accessible cars in each train that serves new or altered stations on the line or system. For example, if a new commuter or high-speed rail line or system is being built, and the track adjacent to platforms is not shared with freight traffic (*e.g.,* it is a passenger rail-only system, or a bypass or gauntlet track exists for freight traffic), then the stations would have to provide level-entry boarding. Other options would not be permitted.

If a platform being constructed or altered is not adjacent to track used for freight, but the track and platform are used by more than one passenger railroad (*e.g.,* Amtrak and a commuter railroad), the possibility of the platform serving cars with different door heights exists. In this situation, the level-entry boarding requirement continues to exist. Generally, the platform should be level with respect to the system that has the lower boarding height. This is because it is not good safety practice to make passengers step down (or be lifted down or use ramps to get down) to board a train. For example, if Amtrak operates through a station with cars that are 15 inches ATR, and a commuter railroad uses the same platform with cars that are 25 inches ATR, the platform would be level with respect to the Amtrak cars. The commuter railroad would have to provide another means of access, such as lifts. In all such cases where mixed rail equipment will be used, the rule requires that both FRA and FTA be consulted by the railroads involved. As in other cases where level-entry boarding is not used, the railroad must obtain FTA and/or FRA approval for the means the railroad wants to use to meet the performance standard.

The performance standard approach avoids the objections to the NPRM based on allegations of conflict between higher-level platforms and freight traffic, since platforms being constructed or altered in stations where tracks adjacent to the platforms are shared with freight would not have to provide level-entry boarding. Other solutions could be used at such stations.

The details of the ''track passing through stations and adjacent to platforms is shared with existing freight rail operations'' language are important. There may be some stations that serve lines that are shared by passenger and freight traffic. However, if freight traffic does not actually go through a particular station (*e.g.,* because freight traffic bypasses the station), level-entry boarding is still required. There could also be situations in which multiple tracks pass through a station, and freight traffic uses only a center track, not a track which is adjacent to a platform. In such cases, the new or altered platform would have to provide level-entry boarding. It is important to note that this language refers to ''existing'' freight rail traffic, as opposed to the possibility that freight traffic might use the track in question at some future time. Likewise, if freight trains have not used a track passing through a station in a significant period of time (*e.g.,* the past 10 years), the Department does not view this as constituting ''existing freight rail traffic.''

Where a railroad operator wishes to provide access to its rail cars through a means other than level-entry boarding, it is essential that it provide an integrated, safe, timely, reliable, and effective means of access for people with disabilities. A railroad is not required to choose what might be regarded as a more desirable or convenient method over a less desirable or convenient method, or to choose a more costly option over a less costly option. What a railroad must do is to ensure that whatever option it chooses works. However, to assist railroads in choosing the most suitable option, the rule requires that a railroad not using level-entry boarding, if it chooses an approach other than the use of car-borne lifts, must perform a comparison of the costs (capital, operating, and life-cycle costs) of car-borne lifts versus the means preferred by the railroad operator, as well as a comparison of the relative ability of each of the two alternatives (*i.e.,* car-borne lifts and the railroad's preferred approach) to provide service to people with disabilities in an integrated, safe, reliable, and timely manner. The railroad must submit this comparison to FTA and FRA at the same time as it submits its plan to FRA and/or FTA, as described below, although the comparison is not part of the basis on which the agencies would determine whether the plan meets the performance standard. In creating this comparison, railroads are strongly encouraged to consult with interested individuals and groups and to make the comparison readily available to the public, including individuals with disabilities.

To ensure that the railroad's chosen option works, the railroad must provide to FRA or FTA (or both), as applicable, a plan explaining how its preferred method will provide the required integrated, safe, reliable, timely and effective means of access for people with disabilities. The plan would have to explain how boarding equipment (*e.g.,* bridge plates lifts, ramps, or other appropriate devices) and/or platforms will be deployed, maintained, and operated, as well as how personnel will be trained and deployed to ensure that service to individuals with disabilities was provided in an integrated, safe, timely, effective, and reliable manner. FTA and/or FRA will evaluate the proposed plan and may approve, disapprove, or modify it. It should be emphasized that the purpose of FTA/FRA review of this plan is to make sure that whatever approach a railroad chooses will in fact work; that is, it will

really result in an integrated, safe, reliable, timely and effective means of access for people with disabilities. If a plan, in the view of FRA or FTA, fails to meet this test, then FTA or FRA can reject it or require the railroad to modify it to meet the objectives of this provision.

In considering railroads' plans, the agencies will consider factors including, but not limited to, how the proposal maximizes integration of and accessibility to individuals with disabilities, any obstacles to the use of a method that could provide better service to individuals with disabilities, the safety and reliability of the approach and related technology proposed to be used, the suitability of the means proposed to the station and line and/or system on which it would be used, and the adequacy of equipment and maintenance and staff training and deployment. FTA and FRA will evaluate railroads' plans with respect to whether they achieve the objectives of the performance standard.

For example, some commenters have expressed significant concerns about the use of station-based lifts, noting instances in which such lifts have not been maintained in a safe and reliable working order. A railroad proposing to use station-based lifts would have to describe to FTA or FRA how it would ensure that the lifts remained in safe and reliable operating condition (such as by cycling the lift daily or other regular maintenance) and how it would ensure that personnel to operate the lift were available in a timely manner to assist passengers in boarding a train. This demonstration must clearly state how the railroad expects that its operations will provide safe and dignified service to the users of such lifts.

FRA and FTA are committed to providing timely responses to railroads' proposals. Consequently, FRA/FTA will provide initial written responses within 30 days of receiving railroads' written proposals. These responses will say either that the submission is complete or that more information is needed. Once the requested additional information is received, and/or a complete package has been made available to FTA/FRA for review, as acknowledged by FRA/FTA in writing, FRA/FTA will provide a substantive response accepting, rejecting, or modifying the proposal within 120 days. There may be circumstances (*e.g.,* the necessity for site visits, engaging a consultant to assist FRA/FTA, consultation with other agencies such as the Access Board or the Department of Justice) that will force FRA/FTA to take longer to respond. In such a case, FRA/FTA will provide a written communication to the railroad setting forth the reasons for the delay and an estimate of the additional time (not to exceed an additional 60 days) that FRA/FTA expect to take to finalize a substantive response to the proposal. While the Department is committed to meeting these timeframes, delays in responding do not imply approval of a railroad's plan.

Railroads have the responsibility of making sure that their means of providing access work in practice as well as in concept. Railroads are reminded that FTA and FRA conduct regular compliance reviews of their grantees, and take enforcement actions if they find noncompliance with a rule. For example, if it appears that, in practice, a railroad is unable successfully to provide safe and reliable service using station-based lifts, even if its plans for doing so had been approved (*e.g.,* the railroad is unable to deliver on a consistent basis the service to which it has committed in its approved plan, because its maintenance or staffing efforts are inadequate), then the Department can find the railroad in noncompliance with its ADA and section 504 obligations and require the railroad to take corrective action to ensure that the performance standard is met. The Department also retains the ability to propose additional rulemaking to address problems in railroads' performance and the methods railroads use to ensure nondiscriminatory access to their services.

In existing stations where it is possible to provide access to every car without station or rail car retrofits, rail providers that receive DOT financial assistance should be mindful of the requirement of 49 CFR 27.7(b)(2), which requires that service be provided ''in the most integrated setting that is reasonably achievable.'' For example, if a set of rail cars has car-borne lifts that enable the railroad to comply with section 37.42 at new or altered station platforms, it is likely that deployment of this lift at existing stations will be reasonably achievable. The use of a station-based lift at an existing station to serve more than one car of a train may well also be reasonably achievable (*e.g.,* with movement of the lift, as needed). Similarly, it is likely that, in a system using mini-high platforms, making multiple stops at existing stations would be reasonably achievable. Such actions would serve the objective of providing service in an integrated setting. In addition, in situations where a railroad and the Department have negotiated access to every accessible car in an existing system (*e.g.,* with car-borne lifts and mini-high platforms as a back-up), the Department expects the railroads to continue to provide access to every accessible car for people with disabilities. As noted above, passengers with disabilities would request access to the particular car they were interested in boarding where a means like a mini-high platform or station-based lifts was being used.

The Department is also providing, in section 37.42(f), for a maximum gap allowable for a platform to be considered ''level.'' However, this maximum is not intended to be the norm for new or altered platforms. The Department expects transportation providers to minimize platform gaps to the greatest extent possible by building stations on tangent track and using gap-filling technologies, such as moveable platform edges, threshold plates, platform end boards, and flexible rubber fingers on the ends of platforms. The Department encourages the use of Gap Management Plans and consultation with FRA and/or FTA for guidance on gap safety issues.

The final rule includes the NPRM's proposal for a safety requirement concerning the setback of structures and obstacles (*e.g.,* mini-high platforms, elevators, escalators, and stairwells) from the platform edge. This provision is based on long-standing FRA recommendations and the expertise of the Department's staff. The Department believes that it is inadvisable, with the exception of boarding and alighting a train, to ever have a wheelchair operate over the two-foot wide tactile strips (*i.e.,* detectable warning surfaces) that are parallel to the edge of the platform. This leaves a four-foot distance for a person in a typical wheelchair to maneuver safely past other people on the platform, stair wells, elevator shafts, *etc.* It also is important because a wheelchair user exiting a train at a door where there is not a six-foot clearance would likely have difficulty exiting and making the turn out of the rail car door. The requirement would also avoid channeling pedestrians through a relatively narrow space where, in crowded platform conditions, there would be an increased risk of someone falling off the edge of the platform. Since the rule concerns only new and altered platforms, the Department does not believe the cost or difficulty of designing the platforms to eliminate this hazard will be significant.

Even where level-entry boarding is provided, it is likely that, in many instances, bridge plates would have to be used to enable passengers with disabilities to enter cars, because of the

horizontal gaps involved. Section 38.95(c)(5), referred to in the regulatory text, permits various ramp slopes for bridge plates, depending on the vertical gap in a given situation. In order to maximize the opportunity of passengers to board independently, the Department urges railroads to use the least steep ramp slope feasible at a given platform.

Mobility Device Size and Type

NPRM

Under the Department's current ADA rule, transportation providers are required to permit only wheelchairs meeting the definition of a ''common wheelchair'' onto their vehicles. A common wheelchair is defined by weight (not more than 600 pounds, including the occupant) and dimensional (30 x 48 inches) criteria. The ''common wheelchair'' originated as a design concept, answering the question of what a vehicle lift should be designed to accommodate, but has also been applied as an operational concept, permitting a transit operator to exclude from its vehicles wheelchairs that do not meet the weight and dimensional criteria. This effect of the current regulation was confirmed in *Kiernan* v. *Utah Transit Authority* (339 F.3d 1217, 10th Cir., 2003), where the court determined that the transit authority could exclude from its vehicles a wheelchair that did not meet the common wheelchair criteria, even if the vehicle could physically accommodate the device. The NPRM asked for comment on this and related issues.

Comments

As the Department is aware and as many commenters pointed out in response to the NPRM question on the subject, in the nearly 20 years since the Department issued its ADA regulation there has been a proliferation of different types of wheelchairs, including some models that may not meet the common wheelchair criteria. Most disability community commenters believed that the operational use of the concept was an unnecessary obstacle to transportation opportunities for people with mobility disabilities and that this use of the term should be dropped. They preferred a requirement that would direct transportation providers to carry any wheelchair that the provider's equipment could in fact accommodate. For example, if a lift could carry an 800-pound wheelchair, and there was room on the vehicle for the wheelchair, the provider would have to permit the device onto the vehicle.

Some commenters cited problems that transportation providers' implementation of the common wheelchair provision had caused. For example, someone who had a wheelchair that reclined, but did not recline it when boarding, was told she could not bring the wheelchair on board a paratransit vehicle because, when reclined, it exceeded the dimensional envelope, even though there was room for it to recline. Other passengers complained of being denied rides because a footrest exceeded the dimensional envelope or because their weight, combined with that of their wheelchair, exceeded the common wheelchair weight limit, even though they had ridden the system's vehicles for years without any problem.

Transportation providers generally preferred to retain either the operational effect of the common wheelchair definition or to use some other way of limiting the size and weight of wheelchairs brought onto the vehicle. Some commenters mentioned safety and potential damage to vehicles and equipment as concerns if larger or more irregularly shaped wheelchairs were permitted. The difficulty of securing such wheelchairs was one concern that commenters mentioned. In addition to weight, some commenters mentioned clearance concerns in the vehicle, such as difficulty in getting a wheelchair around a wheel well, driver station, or fare box. A number of transportation providers asked for flexibility in terms of the type of mobility aids they are required to carry.

A number of transportation commenters suggested that a longer-term solution to the problem would be to work with wheelchair manufacturers and the Department of Health and Human Services to establish standards for wheelchairs (or at least wheelchairs that would be purchased via Medicare or Medicaid). Such standards, they suggested, could address not only size and weight but also the ability of wheelchairs to be secured on vehicles. Additional research and consultation with stakeholders was also recommended.

In September 2005, the Department issued guidance concerning non-traditional mobility devices. It said, in essence, that under existing DOT nondiscrimination rules, regulated entities must accept such non-traditional devices (*e.g.,* Segways) as long as the devices could be physically accommodated and accepting them did not cause a direct threat to safety. Some disability community commenters supported this approach, citing the increased mobility that these devices offered persons with mobility impairments, while some transportation industry commenters did not want to have to accept such devices, based on concerns about safety, space, and securement.

DOT Response

The Department continues to believe that standards based on Access Board guidelines for transportation vehicles are the appropriate basis for requirements pertaining to the design and construction of vehicles. To the extent that Access Board vehicle guidelines (currently in a process of revision) retain the ''common wheelchair'' definition, or another set of specifications for lifts and other aspects of vehicles, the Department anticipates continuing to incorporate those guidelines for vehicle design and construction for purposes of 49 CFR part 38. (See also 36 CFR part 1191.) The Department is not contemplating any actions that would require transportation providers and manufacturers to modify existing vehicles or design and construct new vehicles in a way that departs from standards incorporating Access Board guidelines.

Operational requirements are a different matter. If a transportation provider has a vehicle and equipment that meets or exceeds the Access Board's guidelines, and the vehicle and equipment can in fact safely accommodate a given wheelchair, then it is not appropriate, under disability nondiscrimination law, for the transportation provider to refuse to transport the device and its user. Consequently, the final rule deletes the operational role of the ''common wheelchair'' design standard and deletes the sentence concerning ''common wheelchair'' from the part 37 definition of wheelchair, as well as from section 37.165(b) and the Appendix D explanatory text. We are also making one other modification in the definition of ''wheelchair,'' changing ''three- or-four wheeled devices'' to ''three- or more-wheeled devices.'' This change recognizes that, in recent years, devices that otherwise resemble traditional wheelchairs may have additional wheels (*e.g.,* two guide wheels in addition to the normal four wheels, for a total of six). The Department believes that devices of this kind should not be excluded from the definition of ''wheelchair'' solely on the basis of a larger number of wheels.

With respect to the size and weight of wheelchairs, the final rule requires transportation providers to carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user

and there is space for the wheelchair on the vehicle. However, a transportation provider would not be required to carry a wheelchair if in fact the lift or vehicle is unable to accommodate the wheelchair and its user, consistent with legitimate safety requirements.

For example, suppose that a bus or paratransit vehicle lift will safely accommodate an 800-pound wheelchair/passenger combination, but not a combination exceeding 800 pounds. The lift is one that exceeds the part 38 design standard, which requires lifts to be able to accommodate a 600-pound wheelchair/passenger combination. The transportation provider could limit use of that lift to a combination of 800 pounds or less. Likewise, if a wheelchair or its attachments extend beyond the 30 x 48 inch footprint found in part 38's design standards but fit onto the lift and can fit into the wheelchair securement area of the vehicle, the transportation provider would have to accommodate the wheelchair. However, if such a wheelchair was of a size that would block an aisle or not be able to fully enter a rail car, thereby blocking the vestibule, and interfere with the safe evacuation of passengers in an emergency, the operator could deny carriage of that wheelchair, if doing so was necessary as the result of a legitimate safety requirement.

This approach will not force transportation providers to redesign or modify vehicles, but it will prevent arbitrary actions of the kind mentioned by commenters. In addition, transportation providers should be aware that to be a legitimate safety requirement, any limitation must be based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities or their mobility devices. The transportation provider bears the burden of proof of demonstrating that any limitation on the accommodation of a wheelchair is based a legitimate safety requirement.

Beginning with the Department's initial ADA regulation in 1991, the Department has taken the position that a transportation provider cannot deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system (see 49 CFR 37.165(d)). Consequently, a transit provider could not, consistent with this regulatory requirement, impose a limitation on the transportation of wheelchairs and other mobility aids based on the inability of the securement system to secure the device to the satisfaction of the transportation provider. The Department agrees that it would be useful for wheelchair manufacturers and the Department of Health and Human Services to work to design wheelchairs that are more compatible with vehicle securement devices, and with third-party funding resources such as Medicare and Medicaid to ensure that they are eligible under their guidelines. However, the Department of Transportation does not have authority to compel such developments, and it would be inconsistent with nondiscrimination requirements to allow transportation providers to deny service to people who use wheelchairs just because particular devices may be problematic from a securement point of view.

We recognize that persons with mobility disabilities use devices other than wheelchairs to assist with locomotion. Canes, crutches, and walkers, for example, are often used by people whose mobility disabilities do not require use of a wheelchair. These devices must be accepted under the same conditions as wheelchairs, just as DOJ rules require in other contexts. However, the Department does not interpret its rules to require transportation providers to accommodate devices that are not primarily designed or intended to assist persons with mobility disabilities (*e.g.,* skateboards, bicycles, shopping carts), apart from general policies applicable to all passengers who might seek to bring such devices into a vehicle. Similarly, the Department does not interpret its rules to require transportation providers to permit an assistive device to be used in a way that departs from or exceeds the intended purpose of the device (*e.g.,* to use a walker, even one with a seat intended to allow temporary rest intervals, as a wheelchair in which a passenger sits for the duration of a ride on a transit vehicle).

With respect to Segways or other non-traditional powered devices that do not fit the definition of ''wheelchair,'' the Department's position has been influenced by the approach taken by the DOJ in its recently-issued ADA rules. DOJ has created the category of ''other power-driven mobility devices'' (OPMDs). DOJ does not require OPMDs necessarily to be accommodated in every instance in which a wheelchair must be accommodated, but provides that entities must allow such devices unless the entity demonstrates that allowing the device would be inconsistent with legitimate safety requirements. Legitimate safety requirements must be based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities or about the devices they use for mobility purposes. We believe that language based on the DOJ approach is a good way of addressing the issues discussed by the Department in its September 2005 guidance and in comments to the docket for this rulemaking. Consequently, we are modifying the 2005 guidance to follow the DOJ approach.

We note that this approach does not give transportation providers unfettered discretion to deny transportation to Segways and other OPMDs. Transportation providers should accept such devices in most cases. Only if the transportation provider can demonstrate—with respect to a particular type of device in a specific facility or type of vehicle—that it would be infeasible (*e.g.,* the device could not physically fit onto a vehicle) or contrary to legitimate safety requirements (*e.g.,* prohibiting devices powered by internal combustion engines) could it be appropriate for a transportation provider to deny transportation to the OPMD and its user. The transportation provider bears the burden of proof for demonstrating that any limitation on the accommodation of an OPMD is based on a legitimate safety requirement.

Definition of ''Direct Threat''

NPRM

The definition of ''direct threat'' has long been a key provision of this and other disability nondiscrimination regulations. ''Direct threat'' has been the Department's primary reference point in deciding several issues in which there has been tension between the safety concerns of transportation providers and the rights of persons with disabilities to access public transportation, such as prohibitions on wheelchair users being able to use certain bus stops, use of lifts by standees, and carriage of three-wheeled scooters that are not easily secured by existing bus securement devices. A key element of the concept is that, to justify a limitation on individuals with disabilities, there must be a significant threat to others—as distinct from to the individual with a disability—that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services. The NPRM indicated that the Department intended to add a definition of direct threat to 49 CFR 37.3 that would track the definition in DOJ's regulation, which defines direct threat in terms of a threat to the health and safety of others.

Comments

Disability community commenters favored retaining the requirement that a direct threat can only be a threat to the health or safety of others. A number of transportation industry commenters, however, believed that the definition should be modified to permit consideration of threats to the safety of the disabled person him- or herself. Both in the interest of protecting passengers with disabilities from potential harm and of protecting the transit authority from potential liability, these commenters believed that transportation providers should be able to impose certain restrictions on the transportation of some passengers with disabilities if there was danger to the passengers themselves. One example that some commenters cited was a paratransit passenger with dementia who, once dropped off at his or her destination, could become disoriented and wander off if no one at the destination was present to take care of him or her.

DOT Response

The Department has determined that in the transportation context the appropriate definition of direct threat is one that only considers safety threats to others. This approach is consistent with DOJ's regulations. Therefore, we will define direct threat as ''a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services'' and add this definition to our regulation.

We recognize that the situation of paratransit service to a person with dementia or another severe cognitive impairment presents unique problems. The primary risk (*e.g.,* of becoming disoriented and wandering away) is to the passenger, rather than to others, but, in the absence of a personal care attendant or a contact with someone at the destination point, the risk to the safety, or even the life, of the passenger could be very high. This is an issue that should be addressed during the application process and eligibility interview. At that time, the paratransit provider, the applicant, and the person responsible for the applicant's well-being should discuss the parameters of paratransit service, the paratransit agency's policies regarding attended transfers, and the procedures that will be followed in the event that there is no one available to meet the applicant when the vehicle arrives.

The Department has added language to Appendix D of part 37 to make it clear that the concept of ''direct threat'' in this rule is intended to be interpreted consistently with the same term in DOJ rules.

Other Definitions

The DOJ published, on September 15, 2010, new ADA Title II and Title III regulations (75 FR 56164). These rules define certain terms, such as ''disability,'' ''auxiliary aids'' and ''service animals,'' differently from the existing definitions in part 37. Generally, these definitional differences are at the level of detail and wording, and the definitions are not vastly different in concept. The Department will consider whether, in the future, to propose changes to part 37 to parallel the new DOJ definitions. Meanwhile, the existing DOT definitions continue in effect. Regulated entities should not change policies based on the DOJ rules, since it is the DOT rules that apply to them.

Counting Trip Denials and Missed Trips

NPRM

In the preamble to the NPRM, the Department discussed how complementary paratransit systems should count trip denials and missed trips. This is an important issue because the rate of trip denials can affect determinations by the Department and, in some cases, the courts about whether a paratransit operator is complying with its obligations under the Department's paratransit service criteria. Too many denials can result in a finding that the operator either has a capacity constraint or is otherwise falling short of its obligation to provide timely service to eligible passengers.

In many cases, there is no difficulty in determining how to count trip denials. If a passenger asks for a one-way trip from Point A to Point B and is told that a ride is unavailable, or the vehicle does not show up, then one trip has been denied or missed. (A denied trip is one the provider declines to schedule for an eligible rider. A missed trip is one that the provider scheduled for which the vehicle never arrives, or arrives outside of the pickup window, and the passenger does not take the trip.) In the case of requests for round trips or multi-leg trips, the situation is less straightforward. Suppose a passenger asks for a round trip from Point A to Point B and back to Point A, or asks for a trip from Point A to Point B to Point C, with a return to Point A. The first leg of the trip is denied or missed, with the result that the passenger never is able to get to Point B. Clearly, at least one trip—from Point A to Point B—has been denied or missed. In addition, the opportunity to make the subsequent trips in the itinerary has also been lost. In this case, the Department suggested in the NPRM, the trips from Point B back to Point A, or from Point B to Point C and then back to Point A, should also be tallied as denied trips, because the action of the paratransit operator in denying or missing the first trip cost the passenger the chance to take those trips.

Comments

Generally, transit authority commenters believed that only the trip that was actually denied or missed—in the example, the first trip from Point A to Point B—should be counted as a denied or missed trip. Doing otherwise, they said, would unfairly exaggerate the performance problems of the operator. In addition, these commenters said, there might be cases in which operators, while unable to provide transportation from Point A to Point B, would be able to provide transportation from Point B to Point A later in the day, if the passenger had found an alternative way of getting to Point B. Moreover, some commenters said, there could be some situations in which it could be difficult to determine whether the denial of one trip led to the inability to take a subsequent trip, making the counting process problematic.

Disability community commenters, on the other hand, supported treating as denials foregone opportunities for subsequent trips resulting from denied or missed trips. Under the ADA, these commenters believe, eligible passengers are required to receive trips they request. If a denial of one trip makes a second requested trip impossible, then two opportunities to travel required by the regulation have been lost, and should be counted as such. Both trips should be counted as denied, lest paratransit operators evade accountability for their failure to provide required service.

DOT Response

The Department believes that when a denied or missed trip makes a subsequent requested trip impossible, two opportunities to travel have been lost from the point of view of the passenger. In the ontext of a statute and regulation intended to protect the opportunities of passengers with disabilities to use transportation systems in a nondiscriminatory way, that is the point of view that most matters. To count denials otherwise would understate the performance deficit of the operator. The paratransit

operator obviously would not need to count as a denial a trip that was actually made (*e.g.,* trip from Point A to Point B missed, passenger gets to Point B in a taxi, and paratransit operator carries him from Point B back to Point A). While there may be situations in which an operator would have to exercise judgment concerning whether the denial of one trip resulted in a lost opportunity for a subsequent trip, that is not sufficient reason, in the Department's view, to permit paratransit operators to generally avoid counting as denials lost opportunities for travel resulting from their own inability to provide previous trips. We also caution paratransit operators against declining to take reservations for round trips or ''will call'' trips in order to reduce missed or denied trip statistics.

It is also important for there to be a standardized way of counting missed trips and denials that the Department, passengers, and transit providers can rely upon. These statistics should be calculated on the same basis nationwide, in order to permit better program evaluation and comparisons across transit providers. The Department is issuing guidance on counting missed/denied trips, and the Federal Transit Administration can work further with transit providers on appropriate statistical measures.

Disability Law Coordinating Council (DLCC)

NPRM Proposal

The NPRM proposed codifying the existing coordination mechanism for issuing guidance and interpretations of disability laws and regulations throughout the Department of Transportation. Known as the DLCC, this group consists of representation from the Office of the Secretary, Federal Transit Administration, Federal Highway Administration, Federal Aviation Administration, Federal Motor Carrier Safety Administration, National Highway Traffic Safety Administration, and Federal Railroad Administration. Before any guidance or interpretation documents developed by the DLCC are issued, they must be approved by the General Counsel on behalf of the Department of Transportation as a whole. This ensures that the Department speaks with one voice on important disability nondiscrimination issues.

The NPRM's proposal with respect to the DLCC is modeled on provisions in the Department's disadvantaged business enterprise (DBE) and drug and alcohol testing regulations, where similar mechanisms have worked well for many years. Like the Department's ADA and section 504 rules, these rules are Office of the Secretary regulations applying to parties subject to the programs of several DOT operating administrations.

Comments

Almost all comments from the disability community supported codifying the DLCC, for the reasons described in the NPRM. Most transit industry commenters opposed doing so, citing a variety of reasons. Some expressed concern that the DLCC would issue what amounted to legislative rules without an opportunity for public comment. Many of these commenters wanted the Department to ensure that there would be an opportunity for public comment on guidance and interpretations in any case. Others wanted guidance and interpretations of the DOT ADA concerning transit matters to come from FTA, rather than from the Department as a whole. Several commenters believed that a provision of SAFETEA–LU that directed FTA to seek notice and comment on guidance that had binding effect should apply to DOT guidance.

DOT Response

Coordination of interpretations and guidance, so that the Department of Transportation speaks with a single, reliable voice on disability law matters, is essential to the reasoned application of the ADA and section 504 of the Rehabilitation Act of 1973. The Department's experience in the past has been that, in the absence of such a coordination mechanism, various DOT offices and staff members have offered differing or inconsistent views on important disability law matters. In some cases, one office may not even have been aware of a response another office had given concerning the implementation of the same provision of a DOT regulation. The lack of a coordinating mechanism like the DLCC creates an opportunity for forum shopping, in which interested parties can call or write a series of DOT offices or staff personnel until they get the answer they want to a question. It also increases the likelihood of inconsistent practice among DOT recipients.

The Department does not find the transit industry objections to codifying the DLCC to be well-taken. The same transit industry parties that objected to the DLCC mechanism have accepted the same mechanism in the DBE regulation since 1999 and the drug testing procedure regulations since 2000, and neither they nor the Department have experienced any significant problems in those contexts. While transit industry organizations may disagree with some guidance and interpretations that the Department as a whole has produced concerning the ADA, that is not a cogent criticism of the internal process that is common to all three rules.

Legislative rules—like parts 37 and 38—have the force and effect of Federal law and, with certain exceptions not germane to this discussion, are issued through the normal Administrative Procedure Act notice and comment process. Consistent with Executive Orders and OMB Bulletins, guidance questions and answers do not claim independently to have the force and effect of Federal law, but rather set forth the Department's interpretations of its own rules and the Department's understanding of and recommendations for implementing provisions of rules and statutes. The Department's guidance, issued through the DLCC, consistently observes this distinction. It should be noted, however, that the Department's actions with respect to implementing and enforcing the provisions of part 37 and other legislative rules will be consistent with the Department's interpretations and understanding of those rules, as articulated in DOT guidance.

The internal organization of how the Department issues guidance, and the job of interpreting the meaning of DOT regulations and the statutes on which they are based, are inherently governmental functions. While the Department regularly discusses the interpretation and implementation of its rules with stakeholders, producing guidance on these matters is ultimately the Department's responsibility. The SAFETEA–LU provision that commenters mentioned (codified at 49 U.S.C. 5334) applies only to guidance issued by the Federal Transit Administration. It does not apply to guidance issued by the Department as a whole based on a regulation that is, and always has been, an Office of the Secretary rather than a Federal Transit Administration rule.

For all these reasons, the Department is adopting the DLCC provision as proposed. We note that a number of commenters asked for additional guidance concerning several issues in the regulation, such as how concepts like undue burden, direct threat, integrated settings, origin to destination, *etc.* are best understood. To the extent that issues like these require additional interpretation or guidance following the issuance of this rule, the Department will use the DLCC mechanism to craft well-coordinated responses to questions concerning issues of this kind.

Miscellaneous Provisions

Consistent with guidance issued in September 2005, the Department is amending § 37.23, in paragraphs (a), (c), and (d), to add the words ''(including, but not limited to, a grant, subgrant, or cooperative agreement)'' after the word ''arrangement.'' The purpose of this amendment is to clarify that the term ''other arrangement or relationship'' refers to any means other than a contract through which a public entity works with a private entity to provide fixed route or demand responsive service. A private entity that receives a subgrant under 49 U.S.C. 5311 has an ''arrangement or relationship'' with the state agency involved. If a state provides § 5311 funding to a county government via a subgrant agreement, which then provides fixed route service, there is no dispute that eligible passengers must have ADA complementary paratransit service available. If a state provides § 5311 funding to a private entity via a contract, which then provides fixed route service, there is no dispute that eligible passengers must have ADA complementary paratransit service available. Likewise, eligible passengers must have ADA complementary paratransit service available if a state provides § 5311 funding to a private entity via a subgrant agreement; otherwise, passengers would be denied service solely on the basis of the state's administrative choice of a provider and a funding mechanism. Making the availability of ADA complementary paratransit service wholly contingent on the state's choice of administrative arrangements would be both arbitrary and inconsistent with the purpose of the ADA.

The Department is removing and reserving section 37.169 and portions of section 37.193. These are obsolete provisions concerning over-the-road buses that are no longer needed, given the passage of time since the promulgation of subpart H of part 37.

The Department is adding or altering language in a few places in 49 CFR part 38 to conform to Access Board language in parallel sections (*e.g.,* ''unless structurally or operationally impracticable'') or to refer to the new section 37.42.

Accessible Web Sites

NPRM and Comments

The Department asked about whether the Department should require that Web sites operated by transportation providers be made accessible to individuals who are blind or visually impaired or otherwise have difficulty using Web sites because of a disability. The Department received several comments from disability community persons or organizations, recommending that the final rule impose such a requirement.

DOT Response

The Department believes strongly that Web sites used by consumers of transportation providers should be accessible. Currently, the Department is considering this issue in the context of the Air Carrier Access Act, and the Department of Justice is reviewing it in the context of ongoing work on its ADA regulations. We believe that it is best to defer action on this issue until the DOT and DOJ work is further advanced, at which point we believe it appropriate to propose changes to our ADA rules consistent with the ACAA and DOJ approaches to the subject.

In any case, under existing rules a transportation entity has an obligation to provide effective communication to persons with disabilities. This obligation exists even if a provider's Web site is not yet fully accessible. If a transportation provider makes certain information available to the public through its Web site, it must make this information available to people who cannot use the Web site. If opportunities (*e.g.,* for discount programs) are made available through the Web site, then these same opportunities must be afforded to people with disabilities who are unable to use the Web site. These are basic nondiscrimination obligations under the ADA and section 504.

Bus Rapid Transit

NPRM and Comments

The NPRM asked whether there should be any specific requirements for bus rapid transit (BRT) systems, which share some of the characteristics of fixed-route bus systems and some characteristics of rail transit systems. Some transit authorities suggested using the bus requirements of the rule for BRT vehicles, since the vehicles are essentially buses. A few commenters suggested adding provisions concerning such subjects as securement. Others suggested that future guidance, rather than regulation, would be the best approach to take.

DOT Response

The Department has decided, for the present, not to propose any additional provisions concerning BRT beyond those that apply to buses, and will follow the recommendations of commenters to address any BRT-specific questions with guidance to the extent feasible.

Heritage Fleets

NPRM and Comments

In a few cities, there are systems that use vintage inaccessible vehicles to provide regular public transit service. The NPRM asked whether any new regulatory provisions should be applied to increase accessibility for such transportation. There were few comments on this matter. Some disability organizations recommended good faith efforts be used to secure accessible vehicles for such systems or that the vehicles be retrofitted for accessibility. Transit industry commenters suggested that no changes were needed from existing regulations and that there was not a problem that the Department need remedy if parallel accessible transit or paratransit were available for origins and destinations served by the heritage fleet lines.

DOT Response

On this matter, the Department believes that no change is necessary from the existing regulation. Sections 37.73 and 37.75 appear to adequately address such situations. Section 37.73 requires good faith efforts be employed to find accessible used vehicles prior to purchasing inaccessible vehicles, and 37.75 requires remanufactured vehicles to be made accessible unless an engineering analysis demonstrates that including accessibility features would have a significant adverse effect on the structural integrity of the vehicle. Transit providers are reminded that complementary paratransit service must be provided when the fixed route system is inaccessible.

Used Demand-Response Vehicles

NPRM

The ADA and the Department's rule require that when a public transit provider acquires used vehicles for a fixed route system, the provider must make and document good faith efforts (GFE) to obtain an accessible used vehicle. This requirement does not apply, however, to vehicles acquired for demand-responsive systems for the general public. The NPRM asked whether the GFE requirement should be expanded to cover these systems.

Comments

Most of the comments on these issues were from the disability community, and they unanimously recommended that GFE be required. The rationale for doing so, they said, is the same as in the case of fixed route vehicles: simply acquiring inaccessible used vehicles perpetuates transportation that is not fully accessible to and usable by

passengers with disabilities. The few transit industry comments that addressed this subject objected to performing GFE in these cases, saying that doing so was unnecessary and could inhibit demand-responsive systems for the general public from using sedans or taxi services as part of their operation.

DOT Response

It is likely that today there may be a significant number of used accessible vans and small buses available that demand responsive systems for the general public could use. We believe that it is a best practice for such systems to make good faith efforts to acquire accessible vehicles when seeking used vehicles. However, the statute imposes a good faith effort requirement for acquiring used vehicles only on fixed-route systems, not demand-responsive systems for the general public. Consequently, the Department will not include a regulatory text provision mandating good faith efforts for used vehicles operated in demand-responsive systems for the general public.

Expansion of Key Station Requirements

NPRM and Comments

The NPRM asked whether requirements to retrofit stations for accessibility should be extended to include stations not originally designated as key stations (*e.g.,* stations that, because of changes in land use, had become higher passenger volume stations than they were in 1991). Disability community commenters and one transportation provider stated that all existing stations should be made accessible or, at least, that if an existing station began to meet key station criteria (*e.g.,* because of changes in usage patterns or in the configuration of a rail system), that station should be added to the list of key stations and modified to make it accessible. Most transportation providers either said that a requirement to this effect was unnecessary or that retrofitting additional stations for accessibility was a decision that should be made locally.

DOT Response

In the Department's view, the ADA does not provide a statutory basis for requiring the expansion of the list of key stations, renovation of which for accessibility was to have been completed within a stated amount of time after the statute became effective. By incorporating the key station concept, the ADA clearly did not take the view that all existing stations in pre-ADA systems had to be retrofitted. The Department agrees with transit industry commenters who said that local decisions to react to changes in a system, plus the requirement to make alterations to stations in an accessible way, should be sufficient.

Reasonable Modification of Policies

The NPRM proposed adding language to the rule, parallel to that in Department of Justice ADA rules, the Department's Air Carrier Access Act and, more recently, ADA passenger vessel rules, requiring regulated entities to make reasonable modifications to policies in order to ensure appropriate and nondiscriminatory service to persons with disabilities. This proposal attracted extensive comment. Generally, disability community commenters favored the proposal while transportation industry commenters opposed it.

The Department is continuing to work toward a final rule addressing this subject, including working on a regulatory evaluation concerning the costs and benefits of such a requirement. Because the work on a regulatory evaluation concerning rail service accessibility has occurred before work has been completed on the regulatory evaluation of the reasonable modification proposal, the Department is not issuing a final rule concerning reasonable modification at this time.

The Department notes that its September 2005 guidance concerning origin-to-destination service remains the Department's interpretation of the obligations of ADA complementary paratransit providers under existing regulations. As with other interpretations of regulatory provisions, the Department will rely on this interpretation in implementing and enforcing the origin-to-destination requirement of part 37. This application of the origin-to-destination service requirement of the existing rule is not dependent on the ultimate disposition of the NPRM's reasonable modification proposal.

Regulatory Analyses and Notices

Executive Order 12866

This final rule is significant for purposes of Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. The NPRM clarifies the Department's existing requirements concerning new commuter and intercity rail platforms. The Department has conducted a regulatory evaluation of the costs of the requirements of the final rule version of section 37.42. The overall conclusion of the evaluation is that there will be no significant cost impacts as the result of provisions of the final rule for commuter rail operators and modest costs at a relatively small number of stations for Amtrak. The regulatory evaluation has been placed in the docket.

Other provisions of the final rule do not represent significant departures from existing regulations and policy and are not expected to have noteworthy cost impacts on regulated parties. The final rule also codifies existing internal administrative practices concerning disability law guidance. This proposal would have no cost impacts on regulated parties.

Federalism

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

Regulatory Flexibility Act (5 U.S.C. 601–612)

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities. The rail operators affected by the boarding nondiscrimination portion of the rule are Amtrak and commuter authorities. Amtrak is a large entity. Commuter rail operators are large entities. Moreover, as the text of the rule and preamble make clear, there are no retrofit requirements that would increase costs for covered entities, regardless of size, as requirements apply only with respect to new and altered facilities. As the regulatory evaluation shows, costs for Amtrak will be modest and costs for commuter operators will be relatively low. None of the other provisions of the rule have any significant effect on entities' costs or operations. The wheelchair equipment provision applies only to how transportation providers, regardless of size, use the equipment they have. Again, no retrofit is required. The changes to part 38 are only in terminology. These facts support the Department's conclusion that there will not be significant economic effects from

the rule, and that a substantial number of small entities are not affected.

Unfunded Mandates Reform Act

Since the ADA and section 504 are nondiscrimination/civil rights statutes, the Unfunded Mandates Reform Act does not apply. In any case, since Amtrak and commuter rail authorities receive Federal funds for the operations to which this rule applies, the rule's requirements are properly considered as funded mandates.

Paperwork Reduction Act

Under this rule, railroads that choose to use a means of meeting the performance standard other than level-entry boarding would have to submit a proposed plan to FRA or FTA demonstrating that their chosen method would actually achieve the rule's objectives (see section 37.42(d)(2)). They would also have to make a comparison between using car-borne lifts and other means of meeting the regulatory performance standard (see section 37.42(d)(1)). These requirements constitute information collection requirements covered by the Paperwork Reduction Act of 1995 (PRA) and OMB rules implementing it. The Department will issue a separate 60-day notice seeking comment on these information collection requirements.

List of Subjects

49 CFR Part 37

Buildings, Buses, Civil Rights, Handicapped, Individuals with Disabilities, Mass Transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

49 CFR Part 38

Buses, Civil Rights, Handicapped, Individuals with Disabilities, Mass Transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Issued this 29th Day of August, 2011 at Washington, DC.

Ray LaHood,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department of Transportation amends 49 CFR parts 37 and 38 as follows:

■ 1. The authority citation for part 37 continues to read as follows:

Authority: 42 U.S.C. 12101–12213; 49 U.S.C. 322.

■ 2. In § 37.3, add the definition ''Direct threat'' and revise the definition ''Wheelchair'' to read as follows:

§ 37.3 Definitions.

* * * * *

Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, procedures, or by the provision of auxiliary aids or services.

* * * * *

Wheelchair means a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

■ 3. Revise § 37.15 to read as follows:

§ 37.15 Interpretations and guidance.

The Secretary of Transportation, Office of the Secretary of Transportation, and Operating Administrations may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance shall be developed through the Department's coordinating mechanism for disability matters, the Disability Law Coordinating Council. Written interpretations and guidance constitute the official position of the Department of Transportation, or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement: ''The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR parts 27, 37, 38, and/or 39, as applicable.''

■ 4. In § 37.23, in paragraphs (a), (c), and (d), add the words ''(including, but not limited to, a grant, subgrant, or cooperative agreement)'' after the word ''arrangement.''

■ 5. Add a new § 37.42, to read as follows:

§ 37.42 Service in an Integrated Setting to Passengers at Intercity, Commuter, and High-Speed Rail Station Platforms Constructed or Altered After February 1, 2012.

(a) In addition to meeting the requirements of sections 37.9 and 37.41, an operator of a commuter, intercity, or high-speed rail system must ensure, at stations that are approved for entry into final design or that begin construction or alteration of platforms on or after February 1, 2012, that the following performance standard is met: individuals with disabilities, including individuals who use wheelchairs, must have access to all accessible cars available to passengers without disabilities in each train using the station.

(b) For new or altered stations serving commuter, intercity, or high-speed rail lines or systems, in which no track passing through the station and adjacent to platforms is shared with existing freight rail operations, the performance standard of paragraph (a) of this section must be met by providing level-entry boarding to all accessible cars in each train that serves the station.

(c) For new or altered stations serving commuter, intercity, or high-speed rail lines or systems, in which track passing through the station and adjacent to platforms is shared with existing freight rail operations, the railroad operator may comply with the performance standard of paragraph (a) by use of one or more of the following means:

(1) Level-entry boarding;

(2) Car-borne lifts;

(3) Bridge plates, ramps or other appropriate devices;

(4) Mini-high platforms, with multiple mini-high platforms or multiple train stops, as needed, to permit access to all accessible cars available at that station; or

(5) Station-based lifts;

(d) Before constructing or altering a platform at a station covered by paragraph (c) of this section, at which a railroad proposes to use a means other than level-entry boarding, the railroad must meet the following requirements:

(1) If the railroad operator not using level-entry boarding chooses a means of meeting the performance standard other than using car-borne lifts, it must perform a comparison of the costs (capital, operating, and life-cycle costs) of car-borne lifts and the means chosen by the railroad operator, as well as a comparison of the relative ability of each of these alternatives to provide service to individuals with disabilities in an integrated, safe, timely, and reliable manner. The railroad operator must submit a copy of this analysis to FTA or FRA at the time it submits the plan required by paragraph (d)(2) of this section.

(2) The railroad operator must submit a plan to FRA and/or FTA, describing its proposed means to meet the performance standard of paragraph (a) of this section at that station. The plan must demonstrate how boarding equipment or platforms would be deployed, maintained, and operated; and how personnel would be trained and deployed to ensure that service to individuals with disabilities is provided in an integrated, safe, timely, and reliable manner.

(3) Before proceeding with constructing or modifying a station platform covered by paragraphs (c) and (d) of this section, the railroad must

obtain approval from the FTA (for commuter rail systems) or the FRA (for intercity rail systems). The agencies will evaluate the proposed plan and may approve, disapprove, or modify it. The FTA and the FRA may make this determination jointly in any situation in which both a commuter rail system and an intercity or high-speed rail system use the tracks serving the platform. FTA and FRA will respond to the railroad's plan in a timely manner, in accordance with the timetable set forth in paragraphs (d)(3)(i) through (d)(3)(iii) of this paragraph.

(i) FTA/FRA will provide an initial written response within 30 days of receiving a railroad's written proposal. This response will say either that the submission is complete or that additional information is needed.

(ii) Once a complete package, including any requested additional information, is received, as acknowledged by FRA/FTA in writing, FRA/FTA will provide a substantive response accepting, rejecting, or modifying the proposal within 120 days.

(iii) If FTA/FRA needs additional time to consider the railroad's proposal, FRA/FTA will provide a written communication to the railroad setting forth the reasons for the delay and an estimate of the additional time (not to exceed an additional 60 days) that FRA/FTA expect to take to finalize a substantive response to the proposal.

(iv) In reviewing the plan, FRA and FTA will consider factors including, but not limited to, how the proposal maximizes accessibility to individuals with disabilities, any obstacles to the use of a method that could provide better service to individuals with disabilities, the safety and reliability of the approach and related technology proposed to be used, the suitability of the means proposed to the station and line and/or system on which it would be used, and the adequacy of equipment and maintenance and staff training and deployment.

(e) In any situation using a combination of high and low platforms, a commuter or intercity rail operator shall not employ a solution that has the effect of channeling passengers into a narrow space between the face of the higher-level platform and the edge of the lower platform.

(1) Except as provided in paragraph (e)(2) of this paragraph, any obstructions on a platform (mini-high platforms, stairwells, elevator shafts, seats *etc.*) shall be set at least six feet back from the edge of a platform.

(2) If the six-foot clearance is not feasible (*e.g.,* where such a clearance would create an insurmountable gap on a mini-high platform or where the physical structure of an existing station does not allow such clearance), barriers must be used to prevent the flow of pedestrian traffic through these narrower areas.

(f) For purposes of this part, level-entry boarding means a boarding platform design in which the horizontal gap between a car at rest and the platform is no more than 10 inches on tangent track and 13 inches on curves and the vertical height of the car floor is no more than 5.5 inches above the boarding platform. Where the horizontal gap is more than 3 inches and/or the vertical gap is more than ⅝ inch, measured when the vehicle is at rest, the horizontal and vertical gaps between the car floor and the boarding platform must be mitigated by a bridge plate, ramp, or other appropriate device consistent with 49 CFR 38.95(c) and 38.125(c).

§ 37.71 [Amended]

■ 6. In § 37.71, remove the words ''Except as provided elsewhere in this section'' from paragraph (a) and remove paragraphs (b) through (g).

§ 37.103 [Amended]

■ 7. In § 37.103 (b) and (c), remove the words ''or an over-the-road bus,''.

■ 8. Revise § 37.165(b) to read as follows:

§ 37.165 Lift and securement use.

* * * * *

(b) Except as provided in this section, individuals using wheelchairs shall be transported in the entity's vehicles or other conveyances.

(1) With respect to wheelchair/occupant combinations that are larger or heavier than those to which the design standards for vehicles and equipment of 49 CFR part 38 refer, the entity must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. The entity may decline to carry a wheelchair/occupant if the combined weight exceeds that of the lift specifications or if carriage of the wheelchair is demonstrated to be inconsistent with legitimate safety requirements.

(2) The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

* * * * *

§ 37.169 [Removed and reserved]

■ 9. Remove and reserve § 37.169.

■ 10. In § 37.193, remove paragraph (a)(2), remove and reserve paragraph (c), and redesignate paragraph (a)(3) as (a)(2).

■ 11. Appendix D to Part 37 is amended by:

■ A. Under Section 37.3 Definitions, remove the last two paragraphs and add four paragraphs in its place,

■ B. Add Section 37.42 in numerical order,

■ C. Revise the first paragraph under Section 37.71,

■ D. Under Section 37.93 remove the period at the end of last sentence in the third paragraph and replace with it comma, and add the following language: ''except where doing is necessary to comply with the provisions of section 37.42 of this part.''

■ E. Revise Section 37.165.

The revisions and additions read as follows:

Appendix D to Part 37—Construction and Interpretation of Provisions of 49 CFR Part 37

* * * * *

Section 37.3 Definitions

* * * * *

The definition of ''wheelchair'' includes a wide variety of mobility devices. This inclusiveness is consistent with the legislative history of the ADA (See S. Rept. 101–116 at 48). While some mobility devices may not look like many persons' traditional idea of a wheelchair, three- and more-wheeled devices, of many varied designs, are used by individuals with disabilities and must be transported. ''Wheelchair'' is defined in this rule as a mobility aid belonging to any class of three-or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered. The ''three- or-more-wheeled'' language in the definition is intended to encompass wheelchairs that may have additional wheels (*e.g.,* two extra guide wheels in addition to the more traditional four wheels).

Persons with mobility disabilities may use devices other than wheelchairs to assist with locomotion. Canes, crutches, and walkers, for example, are often used by people whose mobility disabilities do not require use of a wheelchair. These devices must be accommodated on the same basis as wheelchairs. However, the Department does not interpret its rules to require transportation providers to accommodate devices that are not primarily designed or intended to assist persons with mobility disabilities (*e.g.,* skateboards, bicycles, shopping carts), apart from general policies applicable to all passengers who might seek to bring such devices into a vehicle. Similarly, the Department does not interpret its rules to require transportation providers to permit an assistive device to be used in a way that departs from or exceeds the intended purpose of the device (*e.g.,* to use a walker, even one with a seat intended to allow temporary rest intervals, as a wheelchair in

which a passenger sits for the duration of a ride on a transit vehicle).

The definition of wheelchair is not intended to include a class of devices known as ''other power-driven mobility devices'' (OPMDs). OPMDs are defined in Department of Justice ADA rules as ''any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf carts * * * Segway[s]®, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair * * * .'' DOT is placing guidance on its Web site concerning the use of Segways in transportation vehicles and facilities.

The definition of ''direct threat'' is intended to be interpreted consistently with the parallel definition in Department of Justice regulations. That is, part 37 does not require a public entity to permit an individual to participate in or benefit from the services, programs, or activities of that public entity when that individual poses a direct threat to the health or safety of others. In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

* * * * *

Section 37.42

Service in an integrated setting to passengers at intercity, commuter, and high-speed rail station platforms constructed or altered after February 1, 2012.

Individuals with disabilities, including individuals who use wheelchairs, must have access to all accessible cars in each train using a new or altered station. This performance standard will apply at stations where construction or alteration of platforms begins 135 days or more after the rule is published. The performance standard does not require rail operators to retrofit existing station platforms or cars. The requirement is prospective, and section 37.42 does not require retrofit of existing stations (though compliance with existing disability nondiscrimination requirements not being altered is still required). To meet this performance standard on lines or systems where track passing through stations and adjacent to platforms is shared with existing freight rail operations, passenger railroads that do not choose to provide level-entry boarding may, after obtaining FRA and/or FTA approval, use car-borne lifts, ramps or other devices, mini-high platforms (making multiple stops where necessary to accommodate passengers wishing to use different cars of the train), or movable station-based lifts.

On commuter, intercity, or high-speed rail lines or systems in which track passing through stations and adjacent to platforms is not shared with existing freight rail operations, the performance standard *must* be met by providing level-entry boarding to all accessible cars in each train that serves new or altered stations on the line or system. For example, if a new commuter or high-speed rail line or system is being built, and the track adjacent to platforms is not shared with freight traffic (*e.g.,* it is a passenger rail-only system, or a passing or gauntlet track exists for freight traffic), then the stations would have to provide level-entry boarding. Other options would not be permitted.

If a platform being constructed or altered is not adjacent to track used for freight, but the track and platform are used by more than one passenger railroad (*e.g.,* Amtrak and a commuter railroad), the possibility of the platform serving cars with different door heights exists. In this situation, the level-entry boarding requirement continues to exist. Generally, the platform should be level with respect to the system that has the lower boarding height. This is because it is not good safety practice to make passengers step down (or be lifted down or use ramps to get down) to board a train. For example, if Amtrak operates through a station with cars that are 15 inches ATR, and a commuter railroad uses the same platform with cars that are 25 inches ATR, the platform would be level with respect to the Amtrak cars. The commuter railroad would have to provide another means of access, such as lifts. In all such cases where mixed rail equipment will be used, the rule requires that both FRA and FTA be consulted by the railroads involved. As in other cases where level-entry boarding is not used, the railroad must obtain FTA and/or FRA approval for the means the railroad wants to use to meet the performance standard.

The details of the ''track passing through stations and adjacent to platforms is shared with existing freight rail operations'' language are important. There may be stations that serve lines that are shared, at some points, by passenger and freight traffic, but where the freight traffic does not go through the particular station (*e.g.,* because freight traffic bypasses the station), level-entry boarding is required. There could also be situations on which multiple tracks pass through a station, and freight traffic uses only a center track, not a track which is adjacent to a platform. In such cases, the new or altered platform would have to provide level-entry boarding. It is important to note that this language refers to ''existing'' freight rail traffic, as opposed to the possibility that freight traffic might use the track in question at some future time. Likewise, if freight trains have not used a track passing through a station in a significant period of time (*e.g.,* the past 10 years), the Department does not view this as constituting ''existing freight rail traffic.''

Passenger rail operators must provide access only to accessible, available cars that people with disabilities are trying to access at a given station. If a train has eight accessible cars, and wheelchair users want to enter only cars 2 and 7 (see discussion below of passenger notification), then railroad personnel need to deploy lifts or bridge plates only at cars 2 and 7, not at the other cars. Similarly, the rule requires operators to provide access only to available cars at a station. If a train has eight accessible cars, but the platform only serves cars 1 through 6, then railroad personnel need to deploy lifts or bridge plates only at cars that people with disabilities are trying to access and that are available to all passengers. We would also point out that wheelchair positions on rail passenger cars are intended to serve wheelchair users, and railroad operators should take steps to ensure that these spaces are available for wheelchair users and not for other uses. For example, it would be contrary to the rule for a wheelchair user to be told that he or she could not use car 7 because the wheelchair spaces were filled with other passengers' luggage from a previous stop.

In order to ensure that access was provided, passengers would have to notify railroad personnel. For example, if a passenger at a station wanted to use a station-based lift to access car 6, the passenger would request the use of car 6 and railroad personnel would deploy the lift at that car. Likewise, at a station using a mini-high platform, a passenger on this platform would inform train personnel that he or she wanted to enter car 5, whereupon the train would pull forward so that car 5 was opposite the mini-high platform. We contemplate that these requests would be made when the train arrives, and railroads could not insist on advance notice (*e.g.,* the railroad could not require a passenger to call a certain time in advance to make a ''reservation'' to use a lift to get on a particular car). As part of its submission to FTA or FRA, the railroad would describe the procedure it would use to receive and fulfill these requests.

Where a railroad operator wishes to provide access to its rail cars through a means other than level-entry boarding, it is essential that it provide an integrated, safe, timely, reliable, and effective means of access for people with disabilities. A railroad is not required to choose what might be regarded as a more desirable or convenient method over a less desirable or convenient method, or to choose a more costly option over a less costly option. What a railroad must do is to ensure that whatever option it chooses works. However, to assist railroads in choosing the most suitable option, the rule requires that a railroad not using level-entry boarding, if it chooses an approach other than the use of car-borne lifts, must perform a comparison of the costs (capital, operating, and life-cycle costs) of car-borne lifts versus the means preferred by the railroad operator, as well as a comparison of the relative ability of each of the two alternatives (*i.e.,* car-borne lifts and the railroad's preferred approach) to provide service to people with disabilities in an integrated, safe, reliable, and timely manner. The railroad must submit this comparison to FTA and FRA at the same time as it submits its plan to FRA and/or FTA, as described below, although the comparison is not part of the basis on which the agencies would determine whether the plan meets the performance standard. The Department believes that, in creating this plan, railroads should consult with interested individuals and groups and should make the plan readily

available to the public, including individuals with disabilities.

To ensure that the railroad's chosen option works, the railroad must provide to FRA or FTA (or both), as applicable, a plan explaining how its preferred method will provide the required integrated, safe, reliable, timely and effective means of access for people with disabilities. The plan would have to explain how boarding equipment (*e.g.,* bridge plates, lifts, ramps, or other appropriate devices) and/or platforms will be deployed, maintained, and operated, as well as how personnel will be trained and deployed to ensure that service to individuals with disabilities was provided in an integrated, safe, timely, effective, and reliable manner.

FTA and/or FRA will evaluate the proposed plan with respect to whether it will achieve the objectives of the performance standard and may approve, disapprove, or modify it. It should be emphasized that the purpose of FTA/FRA review of this plan is to make sure that whatever approach a railroad chooses will in fact work; that is, it will really result in an integrated, safe, reliable, timely and effective means of access for people with disabilities. If a plan, in the view of FRA or FTA, fails to meet this test, then FTA or FRA can reject it or require the railroad to modify it to meet the objectives of this provision.

In considering railroads' plans, the agencies will consider factors including, but not limited to, how the proposal maximizes integration of and accessibility to individuals with disabilities, any obstacles to the use of a method that could provide better service to individuals with disabilities, the safety and reliability of the approach and related technology proposed to be used, the suitability of the means proposed to the station and line and/or system on which it would be used, and the adequacy of equipment and maintenance and staff training and deployment.

For example, some commenters have expressed significant concerns about the use of station-based lifts, noting instances in which such lifts have not been maintained in a safe and reliable working order. A railroad proposing to use station-based lifts would have to describe to FTA or FRA how it would ensure that the lifts remained in safe and reliable operating condition (such as by cycling the lift daily or other regular maintenance) and how it would ensure that personnel to operate the lift were available in a timely manner to assist passengers in boarding a train. This demonstration must clearly state how the railroad expects that their operations will provide safe and dignified service to the users of such lifts.

In existing stations where it is possible to provide access to every car without station or rail car retrofits, rail providers that receive DOT financial assistance should be mindful of the requirement of 49 CFR 27.7(b)(2), which requires that service be provided ''in the most integrated setting that is reasonably achievable.'' For example, if a set of rail cars has car-borne lifts that enable the railroad to comply with section 37.42 at new or altered station platforms, it is likely that deployment of this lift at existing stations will be reasonably achievable. Similarly, it is likely that, in a system using mini-high platforms, making multiple stops at existing stations would be reasonable achievable. The use of a station-based lift at an existing station to serve more than one car of a train may well also be reasonably achievable (*e.g.,* with movement of the lift or multiple stops, as needed). Such actions would serve the objective of providing service in an integrated setting. In addition, in situations where a railroad and the Department have negotiated access to every accessible car in an existing system (*e.g.,* with car-borne lifts and mini-high platforms as a back-up), the Department expects the railroads to continue to provide access to every accessible car for people with disabilities.

Section 37.42(e) provides a safety requirement concerning the setback of structures and obstacles (*e.g.,* mini-high platforms, elevators, escalators, and stairwells) from the platform edge. This provision is based on long-standing FRA recommendations and the expertise of the Department's staff. The Department believes that it is inadvisable, with the exception of boarding and alighting a train, to ever have a wheelchair operate over the two-foot wide tactile strips that are parallel to the edge of the platform. This leaves a four-foot distance for a person in a typical wheelchair to maneuver safely past stair wells, elevator shafts, *etc.* It also is important because a wheelchair user exiting a train at a door where there is not a six-foot clearance would likely have difficulty exiting and making the turn out of the rail car door. The requirement would also avoid channeling pedestrians through a relatively narrow space where, in crowded platform conditions, there would be an increased chance of someone falling off the edge of the platform. Since the rule concerns only new and altered platforms, the Department does not believe the cost or difficulty of designing the platforms to eliminate this hazard will be significant.

Section 37.42(f) provides the maximum gap allowable for a platform to be considered ''level.'' However, this maximum is not intended to be the norm for new or altered platforms. The Department expects transportation providers to minimize platform gaps to the greatest extent possible by building stations on tangent track and using gap-filling technologies, such as moveable platform edges, threshold plates, platform end boards, and flexible rubber fingers on the ends of platforms. The Department encourages the use of Gap Management Plans and consultation with FRA and/or FTA for guidance on gap safety issues.

Even where level-entry boarding is provided, it is likely that, in many instances, bridge plates would have to be used to enable passengers with disabilities to enter cars, because of the horizontal gaps involved. Section 38.95(c)(5), referred to in the regulatory text, permits various ramp slopes for bridge plates, depending on the vertical gap in given situation. In order to maximize the opportunity of passengers to board independently, the Department urges railroads to use the least steep ramp slope feasible at a given platform.\

* * * * *

Section 37.71 Acquisition of Accessible Vehicles by Public Entities

This section generally sets out the basic acquisition requirements for a public entity purchasing a new vehicle. The section requires any public entity that purchases or leases a new vehicle to acquire an accessible vehicle.

* * * * *

Section 37.165 Lift and Securement Use

This provision applies to both public and private entities.

All people using wheelchairs, as defined in the rule, and other powered mobility devices, under the circumstances provided in the rule, are to be allowed to ride the entity's vehicles.

Entities may require wheelchair users to ride in designated securement locations. That is, the entity is not required to carry wheelchair users whose wheelchairs would have to park in an aisle or other location where they could obstruct other persons' passage or where they could not be secured or restrained. An entity's vehicle is not required to pick up a wheelchair user when the securement locations are full, just as the vehicle may pass by other passengers waiting at the stop if the bus is full.

The entity may require that wheelchair users make use of securement systems for their mobility devices. The entity, in other words, can require wheelchair users to ''buckle up'' their mobility devices. The entity is required, on a vehicle meeting part 38 standards, to use the securement system to secure wheelchairs as provided in that part. On other vehicles (*e.g.,* existing vehicles with securement systems which do not comply with part 38 standards), the entity must provide and use a securement system to ensure that the mobility device remains within the securement area. This latter requirement is a mandate to use best efforts to restrain or confine the wheelchair to the securement area. The entity does the best it can, given its securement technology and the nature of the wheelchair. The Department encourages entities with relatively less adequate securement systems on their vehicles, where feasible, to retrofit the vehicles with better securement systems, that can successfully restrain a wide variety of wheelchairs. It is our understanding that the cost of doing so is not enormous.

An entity may not, in any case, deny transportation to a wheelchair and its user because the wheelchair cannot be secured or restrained by a vehicle's securement system, to the entity's satisfaction. The same point applies to an OPMD and its user, subject to legitimate safety requirements.

Entities have often recommended or required that a wheelchair user transfer out of his or her own device into a vehicle seat. Under this rule, it is no longer permissible to require such a transfer. The entity may provide information on risks and make a recommendation with respect to transfer, but the final decision on whether to transfer is up to the passenger.

The entity's personnel have an obligation to ensure that a passenger with a disability is able to take advantage of the accessibility and safety features on vehicles.

Consequently, the driver or other personnel must provide assistance with the use of lifts, ramps, and securement devices. For example, the driver must deploy the lift properly and safely. If the passenger cannot do so independently, the driver must assist the passenger with using the securement device. On a vehicle which uses a ramp for entry, the driver may have to assist in pushing a manual wheelchair up the ramp (particularly where the ramp slope is relatively steep). All these actions may involve a driver leaving his seat. Even in entities whose drivers traditionally do not leave their seats (*e.g.,* because of labor-management agreements or company rules), this assistance must be provided. This rule overrides any requirements to the contrary.

Wheelchair users, especially those using electric wheelchairs, often have a preference for entering a lift platform and vehicle in a particular direction (*e.g.,* backing on or going on frontwards). Except where the only way of successfully maneuvering a device onto a vehicle or into its securement area or an overriding safety concern (*i.e.,* a direct threat) requires one way of doing this or another, the transit provider should respect the passenger's preference. We note that most electric wheelchairs are usually not equipped with rearview mirrors, and that many persons who use them are not able to rotate their heads sufficiently to see behind. People using canes or walkers and other standees with disabilities who do not use wheelchairs but have difficulty using steps (*e.g.,* an elderly person who can walk on a level surface without use of a mobility aid but cannot raise his or her legs sufficiently to climb bus steps) must also be permitted to use the lift, on request.

A lift conforming to Access Board requirements has a platform measuring at least 30'' x 48'', with a design load of at least 600 pounds (*i.e.,* capable of lifting a wheelchair/occupant combination of up to 600 pounds). Working parts upon which the lift depends for support of the load, such as cables, pulleys, and shafts, must have a safety factor of at least six times the design load; nonworking parts such as the platform, frame, and attachment hardware, which would not be expected to wear, must have a safety factor of at least three times the design load.

If a transportation provider has a vehicle and equipment that meets or exceeds standards based on Access Board guidelines, and the vehicle and equipment can in fact safely accommodate a given wheelchair, then it is not appropriate, under disability nondiscrimination law, for the transportation provider to refuse to transport the device and its user. Transportation providers must carry a wheelchair and its user, as long as the lift can accommodate the size and weight of the wheelchair and its user and there is space for the wheelchair on the vehicle. However, if in fact a lift or vehicle is unable to accommodate the wheelchair and its user, the transportation provider is not required to carry it.

For example, suppose that a bus or paratransit vehicle lift will safely accommodate an 800-pound wheelchair/passenger combination, but not a combination exceeding 800 pounds (*i.e.,* a design load of 800 lbs.). The lift is one that exceeds the part 38 design standard, which requires lifts to be able to accommodate a 600-pound wheelchair/passenger combination. The transportation provider could limit use of that lift to a combination of 800 pounds or less. Likewise, if a wheelchair or its attachments extends beyond the 30 x 48 inch footprint found in part 38's design standards but fits onto the lift and into the wheelchair securement area of the vehicle, the transportation provider would have to accommodate the wheelchair. However, if such a wheelchair was of a size that would block an aisle and interfere with the safe evacuation of passengers in an emergency, the operator could deny carriage of that wheelchair based on a legitimate safety requirement.

PART 38—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY SPECIFICATIONS FOR TRANSPORTATION VEHICLES

■ 12. The authority citation for 49 CFR part 38 continues to read as follows:

Authority: 42 U.S.C. 12101–12213; 49 U.S.C. 322.

§ 38.91 [Amended]

■ 13. In § 38.91:

■ A. Amend paragraph (c)(1) by removing the words ''wherever structurally and operationally practicable'' and adding in their place the words ''unless structurally or operationally impracticable.''

■ B. Amend paragraph (c)(2) by removing the words ''not structurally or operationally practicable'' and adding, in their place, the words ''structurally or operationally impracticable''.

§ 38.93 [Amended]

■ 14. In § 38.93(d)(3), remove the period at the end of the paragraph and add the following words: '',ensuring compliance with section 37.42, where applicable.'' in its place.

§ 38.95 [Amended]

■ 15. In § 38.95, amend the first sentence of paragraph (a)(2) by adding the words ''level-entry boarding,'' before the words '' portable or platform lifts'' and by revising the second sentence to read ''The access systems or devices used at a station to which section 37.42 applies must permit compliance with that section.''

§ 38.111 [Amended]

■ 16. In § 38.111,

■ A. Amend paragraph (b)(1) by removing the words ''If physically and operationally practicable'' and adding in their place the words ''Unless structurally or operationally impracticable.''

■ B. Amend paragraph (b)(2) by removing the words ''''not structurally or operationally practicable'' and adding, in their place, the words ''structurally or operationally impracticable''.

§ 38.113 [Amended]

■ 17. In § 38.113, amend paragraph (d)(3) by removing the period at the end of the paragraph and adding the words ''ensuring compliance with section 37.42, where applicable'' in its place.

§ 38.125 [Amended]

■ 18. In § 38.125, amend the first sentence of paragraph (a)(2) by adding the words ''level-entry boarding,'' before the words '' portable or platform lifts'' and by adding a second sentence ''The access systems or devices used at a station to which section 37.42 applies must permit compliance with that section.'' at the end of the paragraph.

[FR Doc. 2011–23576 Filed 9–15–11; 11:15 am]

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Proposed Rules

Federal Register

Vol. 76, No. 181

Monday, September 19, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

RIN 0551–AA74

CCC Export Credit Guarantee (GSM–102) Program

AGENCY: Foreign Agricultural Service and Commodity Credit Corporation, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Commodity Credit Corporation (CCC) published a proposed rule on July 27, 2011 (76 FR 44836–44855), revising and amending the regulations that administer the Export Credit Guarantee (GSM–102) Program. Changes in this proposed rule incorporate program operational changes and information from press releases and notices to participants that have been implemented since the publication of the current rule, and include other administrative revisions to enhance clarity and program integrity. CCC is extending the comment period for the proposed rule to give the public more time to provide input and recommendations on the proposed rule. The original comment period would have closed on September 26, 2011; CCC is extending the comment period for 30 additional days. With this extension, the public may submit comments through October 26, 2011.

DATES: Comments concerning this proposed rule must be received by October 26, 2011, to be assured consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions to submit comments.
- *E-Mail: GSMregs@fas.usda.gov.*
- *Fax:* (202) 720–2495, Attention: ''GSM102 Proposed Rule Comments''.
- *Hand Delivery, Courier, or U.S. Postal delivery:* Amy Slusher, Deputy Director, Credit Programs Division, c/o Public Affairs Division, Foreign Agricultural Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1004, Room 5076, Washington, DC 20250–1004.

Comments may be inspected at 1400 Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this proposed rule is available through the Foreign Agricultural Service (FAS) homepage at: *http://www.fas.usda.gov/excredits/exp-cred-guar-new.asp.*

FOR FURTHER INFORMATION CONTACT: Amy Slusher, Deputy Director, Credit Programs Division; by phone at (202) 720–6211; or by e-mail at: *Amy.Slusher@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2011, CCC published a proposed rule titled ''CCC Export Credit Guarantee (GSM–102) Program'' in the **Federal Register** (76 FR 44836–44855). The GSM–102 Program is administered by the Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture (USDA) on behalf of CCC, pursuant to program regulations codified at 7 CFR part 1493 and through the issuance of ''Program Announcements'' and ''Notices to Participants'' that are consistent with this program regulation. The current regulations became effective on November 18, 1994. Since that time, CCC has implemented numerous operational changes to improve the efficiency of the program, including revised program controls to improve program quality, reduce costs, and protect against waste and fraud. Also since that time, agricultural trade and finance practices have evolved. This proposed rule is intended to reflect these changes and to enhance the overall clarity and integrity of the program. In addition, the Food, Conservation, and Energy Act of 2008 repealed the authority to operate the GSM–103 Program, and this change is reflected in the proposed rule.

CCC has received comments from a number of organizations requesting that the comment period for the proposed rule be extended to allow industry and other affected parties, both in the United States and abroad, to carefully analyze changes in the proposed rule and provide thorough comments. In response to this request, CCC is extending the comment period by 30 days to give the public more time to provide input and to make recommendations on the proposed rule. With this extension, the public may submit comments through October 26, 2011.

Dated: September 9, 2011.

Suzanne E. Heinen,

Acting Vice President, Commodity Credit Corporation, and Acting Administrator, Foreign Agricultural Service.

[FR Doc. 2011–23962 Filed 9–16–11; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[OAG Docket No. 140; AG Order No. 3296–2011]

RIN 1105–AB27

Revision of Department of Justice Freedom of Information Act Regulations

AGENCY: Department of Justice.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: On March 21, 2011, the Department of Justice published a proposed rule revising its existing regulations under the Freedom of Information Act. The comment period for that rule closed on April 20, 2011. The Department is reopening the comment period for an additional 30-day period.

DATES: The comment period for the NRPM published on March 21, 2011 (76 FR 15236), closed on April 20, 2011. This document reopens the comment period. Written comments must be postmarked and electronic comments must be submitted on or before October 19, 2011. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*

• *FAX:* (202) 514–1009. Send your comments to the attention of Caroline A. Smith.

• *Mail:* Caroline A. Smith, Office of Information Policy, U.S. Department of Justice, 1425 New York Ave, Suite 11050, Washington, DC 20530–0001.

To ensure proper handling, please reference OAG Docket No. 140 on your correspondence. See **SUPPLEMENTARY INFORMATION** for further instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Caroline Smith ((202) 514–3642).

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name and address) voluntarily submitted by the commenter.

You are not required to submit personal identifying information in order to comment on this rule. Nevertheless, if you want to submit personal identifying information (such as your name and address) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You also must locate all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You also must prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on *http://www.regulations.gov.*

Personal identifying information and confidential business information identified and located as set forth above will be placed in the agency's public docket file, but not posted online. If you wish to inspect the agency's public docket file in person by appointment, please see the paragraph above entitled **FOR FURTHER INFORMATION CONTACT**.

Discussion

On March 21, 2011, the Department of Justice published a proposed rule revising its existing regulations under the FOIA. (See 76 FR 15236.) The rule proposed to amend the Department's regulations under the Freedom of Information Act (FOIA). The regulations will be revised to update and streamline the language of several procedural provisions, and to incorporate certain of the changes brought about by the amendments to the FOIA under the OPEN Government Act of 2007. Additionally, the regulations will be updated to reflect developments in the case law and to include current cost figures to be used in calculating and charging fees.

The Department received a number of comments while the comment period on the proposed rule was open, but has decided to reopen the comment period in order to ensure that it receives, reviews, and considers as wide a range of comments as possible. Accordingly, the Department is reopening the comment period and will accept comments for an additional 30 days after publication of this notice of proposed rulemaking.

Dated: September 12, 2011.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2011–23903 Filed 9–16–11; 8:45 am]

BILLING CODE 4110–BE–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Parts 381 and 382

[Docket No. MARAD 2011–0121]

Retrospective Review Under E.O. 13563: Cargo Preference

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: The Department of Transportation (Department or DOT) has been engaged for several years in an interagency discussion of its existing Cargo Preference regulations. In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' the Maritime Administration (MarAd) is evaluating the rules' continued validity and whether they effectively address current issues. As part of this review, MarAd invites the public to participate in a comment process designed to help it provide for a more easily administered system of regulations to benefit shippers and shipper agencies in meeting cargo preference requirements pursuant to the Merchant Marine Act, 1936, as amended (the Act) and Maritime Administration implementing regulations.

DATES: The public meeting will be held from 1 to 4 p.m. on October 3, 2011. Other important dates:

Deadline to register to attend the public meeting in person [See also *Registration*]	September 23, 2011.
Deadline to register to speak in person, speak by calling in, or to listen only by phone [See also *Registration*]	September 23, 2011.
Agenda released on regs.dot.gov and MarAd Web site	September 28, 2011.
Call-in and Listen-only info distributed to registrants	September 28, 2011.
Deadline to submit any digital presentation materials	September 28, 2011.
Public Meeting	October 3, 2011— 1 p.m.–4 p.m.

ADDRESSES: The public meeting will be held in the DOT Conference Center rooms 8–10, located on the ground floor of 1200 New Jersey Avenue, SE., Washington, DC 20590. The conference rooms will be open at noon to accommodate early arrivals. Overflow seating will be available in the adjacent conference room 6.

FOR FURTHER INFORMATION CONTACT: Christine S. Gurland, Assistant Chief Counsel for Legislation and Regulations, Office of the Chief Counsel, Mar 225, Maritime Administration, 1200 New Jersey Avenue, Washington, DC 20590; (202) 366–5157; e-mail: *Christine.Gurland@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 18, 2011, President Obama issued Executive Order 13563, which outlined a plan to improve regulation and regulatory review (76 FR 3821, 1/21/11). Executive Order 13563 reaffirms and builds upon governing principles of contemporary regulatory review, including Executive Order 12866, ''Regulatory Planning and

Review,'' (58 FR 51735, 10/4/1993), by requiring Federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness. The President's plan recognizes that these principles should not only guide the Federal government's approach to new regulations, but to existing ones as well. To that end, Executive Order 13563 requires agencies to review existing significant rules to determine if they are outmoded, ineffective, insufficient, or excessively burdensome.

Accordingly, the Maritime Administration is soliciting public comment concerning amendment of its cargo preference regulations governing the carriage of imports and exports, other than those shipped by the Department of Defense. MarAd is considering updating and clarifying its regulations at 46 CFR parts 381 and 382, and establishing procedures to ensure compliance with the cargo preference statutes and regulations in a new part 383. Part 381 implements the requirements of Section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. sections 55304 through 55317) (the Act). The Act requires that a specified percentage of ocean-going cargo generated by Government programs be transported in U.S.-flag, privately owned, commercial vessels. The Act also authorizes the Maritime Administration to issue regulations governing the administration of these cargo preference requirements. MarAd is considering amending existing regulations in order to provide for a more easily administered system of regulations to benefit shippers and shipper agencies in meeting statutory requirements.

As Executive Order 13563 reaffirms, the regulatory process must be transparent and provide opportunities for public participation. MarAd particularly believes that the review of its cargo preference regulations will be more meaningful if it involves input from those affected by those regulations.

Public Meeting Procedures

1. The public meeting will be broadcast live via Web streaming and a listen-only telephone line. The public may access the live Web streaming by a link from *http://www.marad.dot.gov.* Listen-only telephone line participants must register in order to obtain the telephone number.

2. Members of the public are invited to make comments in person at the venue, through a call-in number, or by entry in the Maritime Administration docket. When registering to speak in person or by telephone, please estimate the amount of time that you would like to use for your presentation; final times will be allotted to participants based on the time available and the issues raised.

3. Those who wish to speak during the meeting are requested to advise, at the time of registration, what topic or topics they would like to comment on; amplifying information will be welcome but is not required. For example, comments may focus on, but are not limited to, the following topics: Implementation of the National export policy; Transparency of program transactions; Ease and flexibility of use; Market competition; Government cost control; Stability of the investment environment; Enhancement of the Nation's sealift capability; and Program enforcement mechanisms.

4. Any digital presentation materials for the meeting should be submitted to Thelma Goldring no later than September 28, 2011. [See *Registration* section for contact information.]

5. We hope to be able to accommodate everyone who would like to speak at the meeting, but if there are more interested participants than time available, we will limit participants in order of date and time of registration. If available, time will be allotted to those attending the meeting in person to speak, even if they had not previously registered to speak. For those who wish to make comments, but for whom there is not time available or who do not wish to speak, it will be possible to post comments to the public docket. [See also *Maritime Administration Docket* section.]

6. In-person attendees are encouraged to arrive at least 30 minutes prior to the meeting for processing through building security. All in-person attendees must enter through the New Jersey Avenue entrance (West Building—at the corner of New Jersey Avenue and M Street, SE). Anyone exiting the building for any reason will be required to re-enter through the security checkpoint at the New Jersey Avenue entrance.

7. Due to security requirements, all in-person attendees must bring a Government issued form of identification (*e.g.* driver's license) to ensure access to the building. In-person attendees who have Federal government identification are required to register to attend due to space constraints. Government issued photo identification is required and Foreign National in-person attendees must bring their passports with them. To facilitate security screening, all in-person attendees are encouraged to limit bags and other items (*e.g.* mobile phones, laptops, cameras, etc.) they bring into the building.

8. Due to space limitations no outside videotaping will be allowed.

9. DOT/MarAd is not able to offer visitor parking; we suggest that attendees consider using alternative means of transportation to the building. DOT Headquarters/MarAd is served by Metrorail (Navy Yard station), Metrobus, DC Circulator, and taxi service. There are a number of private parking lots near the DOT building, but MarAd cannot guarantee the availability of parking spaces.

10. For information on facilities or services for persons with disabilities, or to request special assistance at the meeting, contact Thelma Goldring, Office Manager, Office of the Chief Counsel, Mar 220, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366–5186; *Thelma.Goldring@dot.gov* as soon as possible.

11. We will post the public meeting agenda to the docket at *http://regs.dot.gov* and on our Web site at *http://www.marad.dot.gov* by September 28, 2011.

12. MarAd's Chief Counsel will preside over the public meeting. Senior MarAd officials will also attend this meeting as part of a panel with the Chief Counsel to receive comments from the public. During the meeting, we may ask questions that will clarify statements or gather more information or data to help us understand the issues raised by commenters.

13. The meeting is designed to solicit public views and gather additional information for our regulatory review. Therefore, the meeting will be conducted in an informal and non-adversarial manner.

14. A transcript of the public meeting will be available via our Web site at *http://www.marad.dot.gov* and posted to the docket at *http://regs.dot.gov.*

Registration

All in-person attendees, whether or not they are planning to provide their views to the panel, must register with Thelma Goldring, Office Manager, Office of the Chief Counsel, Mar 220, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366–5186; *Thelma.Goldring@dot.gov* no later than September 23, 2011. Any person wishing to present an oral statement via telephone, or any person who would like to listen to the meeting over a listen-only telephone line must also register with Thelma Goldring by September 23, 2011. Call-in and listen-only telephone numbers will be distributed to registered participants on

September 28, 2011. Foreign National registrants must provide full name, title, country of citizenship, date of birth, passport number, and passport expiration date when registering.

Because seating space is limited, we may have to limit the number of attendees in order of date and time of registration.

Maritime Administration Docket

In order to provide the public with alternative means of providing feedback to MarAd in ways that may better suit their needs, we have provided a docket at *http://regs.dot.gov* to allow for submissions to MarAd in a less formal manner. The MarAd Docket provides members of the public who do not wish to make a presentation, cannot make a presentation, or who wish to add other comments, an opportunity to submit their ideas about our Cargo Preference regulatory review.

To ensure that comments are most useful in informing our deliberation and decision process, you should include the docket number (MARAD 2001–0121), the citation to the regulation on which you are commenting (*e.g.,* 46 CFR 381.5), a description of any concerns regarding the regulation, and any supporting information that would assist MarAd in making a decision. To go directly to the Web site use the following link: *http://regs.dot.gov.*

Follow-Up Action by MarAd

Comments received during our review will provide meaningful and significant information for senior MarAd officials assessing the cargo preference regulatory process. The recorded webcast video will remain available following the meeting via a link from our Web site at *http://www.marad.dot.gov.*

Privacy Act Statement

Anyone is able to search all comments entered 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 19476, 04/11/2011) or at *http://www.dot.gov/privacy.html.*

Authority: 5 U.S.C. 610; E.O., 13563, 76 FR 3821, Jan. 21, 2011; E.O. 12866, 58 FR 51735, Oct. 4, 1993.

Issued on September 16, 2011 in Washington, DC.

By Order of the Maritime Administrator Maritime Subsidy Board.

Dated: September 14, 2011.

Julie Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2011–23983 Filed 9–16–11; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2011–0029; 92220–1113–000; ABC Code: C6]

RIN 1018–AX57

Endangered and Threatened Wildlife and Plants; Revising the List of Endangered and Threatened Wildlife for the Gray Wolf (*Canis lupus*) in the Eastern United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplementary materials.

SUMMARY: On May 5, 2011, we, the U.S. Fish and Wildlife Service, published a proposed rule to reevaluate the listing of the Minnesota population of gray wolves (*Canis lupus*) under the Endangered Species Act of 1973, as amended, and revise the listing to conform to current statutory and policy requirements. On August 26, 2011, we announced the reopening of the comment period for our May 5, 2011, proposed rule to provide for public review and comment of additional information regarding our recognition of *C. lycaon* as a separate species. We are publishing this notice to inform the public that supplementary materials are electronically available at *http://www.regulations.gov.*

DATES: The comment period closes on close of business September 26, 2011. Any comments that we receive after the closing date may not be considered in the final decision on this action.

ADDRESSES:

Document availability: See **SUPPLEMENTARY INFORMATION** for information on how to access the supplementary materials.

Comment submission: You may submit comments by one of the following methods:

Electronically: Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Enter Keyword or ID box, enter FWS–R3–ES–2011–0029, which is the docket number for this rulemaking. Then, in the Search panel at the top of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Submit a Comment.''

By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R3–ES–2011–0029, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MS 2042–PDM, Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the *Public Comments Solicited* section below for more information).

FOR FURTHER INFORMATION CONTACT: Laura Ragan, 612–713–5350. Direct all questions or requests for additional information to: Gray Wolf Questions, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458. Additional information is also available on our Web site at *http://www.fws.gov/midwest/wolf.* Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

In the August 26, 2011, **Federal Register** (76 FR 53379), we announced the reopening of the comment period for our May 5, 2011, proposed rule (76 FR 26086) to provide for public review and comment of additional information regarding our recognition of the eastern wolf, *Canis lycaon,* as a separate species, including, in particular, a manuscript prepared by Service employees that is currently undergoing review for publication (Chambers *et al.,* in prep.). In recognition of intellectual property right laws, the manuscript made available on August 26 provided readers with references to the sources of nine copyrighted figures, but did not include the figures themselves. We have since obtained approval to include the nine copyrighted figures in the manuscript made available for public review. On September 7, 2011, we posted the manuscript with the nine copyrighted figures at *http://www.regulations.gov* at Docket No. FWS–R3–ES–2011–0029 to replace the version made available on August 26.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we hereby request data, comments, new information, or suggestions from the public, other

concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The taxonomic classification of wolves in the midwestern and northeastern United States as described in a Service manuscript prepared by Chambers et al., in particular the recognition of the eastern wolf (*Canis lycaon*) as a full species.

(2) Any other relevant information regarding wolves in eastern North America.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Comments must be submitted to *http://www.regulations.gov* before midnight (Eastern Daylight Time) on the date specified in **DATES.** All comments that were submitted during the earlier public comment period will be included as part of the administrative record for this action and need not be resubmitted.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule including the Chambers et al. manuscript (in prep), will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R3–ES–2011–0029; on the Service's Internet site at *http://www.fws.gov/midwest/wolf/;* or by appointment, during normal business hours at the following Ecological Services offices:

- Twin Cities, Minnesota Ecological Services Field Office, 4101 American Blvd. E., Bloomington, MN; 612–725–3548.
- Green Bay, Wisconsin Ecological Services Field Office, 2661 Scott Tower Dr., New Franken, WI; 920–866–1717.
- East Lansing, Michigan Ecological Services Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI; 517–351–2555.
- New England Ecological Services Field Office, U.S. Fish and Wildlife Service, 70 Commercial St., Suite 300, Concord, NH; 603–223–2541.

Dated: September 12, 2011.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2011–23911 Filed 9–16–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110816505–1506–01]

RIN 0648–BB39

Fisheries of the Northeastern United States; Northeast Multispecies Fisheries, Small-Mesh Multispecies Secretarial Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments; notice of public meetings.

SUMMARY: NMFS is requesting public comments on its initiation of a Secretarial Amendment to implement annual catch limits (ACLs) and measures to ensure accountability (AMs) in the small-mesh multispecies fishery. NMFS is initiating the Secretarial Amendment because the New England Fishery Management Council (Council) is not able to develop and submit Amendment 19 to establish ACLs and AMs for the small-mesh multispecies fishery as required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), until well past the statutory deadline of 2011. As required by the Magnuson-Stevens Act, NMFS is announcing four public meetings to allow interested parties the opportunity to provide input on the action.

DATES: Written comments regarding the issues in this advance notice of proposed rulemaking (ANPR) must be received by 5 p.m. local time, on October 19, 2011. Meetings to obtain additional comments on the items discussed in this ANPR will be held on:

- Monday, October 3, 2011 from 4 p.m. to 7 p.m.
- Tuesday, October 4, 2011 from 4 p.m. to 7 p.m.
- Tuesday, October 11, 2011 from 4 p.m. to 7 p.m.
- Wednesday, October 12, 2011 from 4 p.m. to 7 p.m.

ADDRESSES: The meetings will be held in:

- East Setauket, NY.
- Toms River, NJ.
- Gloucester, MA.
- Narragansett, RI.

For specific locations, see **SUPPLEMENTARY INFORMATION**. You may also submit comments on this document, identified by NOAA–NMFS–2011–0206, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''Submit a Comment'' icon, then enter NOAA–NMFS–2011–0206 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* Submit written comments to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Whiting Secretarial.''
- *Fax:* 978–281–9135; Attn: Moira Kelly.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Moira Kelly, Fishery Policy Analyst, (978) 281–9218, *moira.kelly@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Act at § 304(c)(1)(A), the Secretary of Commerce may develop an amendment for a council-managed fishery, if the responsible council ''fails to develop and submit to the Secretary, after a reasonable period of time, a [* * *] necessary amendment * * *'' The Magnuson-Stevens Act requires all

managed fisheries to have ACLs and AMs by 2011. The Council is developing, but has not yet completed, Amendment 19 to the Northeast Multispecies Fishery Management Plan, which would establish ACLs and AMs for the small-mesh multispecies fishery, and does not anticipate Amendment 19 to be submitted to NMFS until May 2012, which means it will not be effective until October 2012. The small-mesh multispecies fishery consists of silver hake, red hake, and offshore hake, often collectively known as ''whiting.'' There are two stocks each of silver and red hake (northern and southern) and one stock of offshore hake.

The Council has not completed Amendment 19 for a number of reasons, including postponing work on the amendment until after the November 2010 stock assessment review for the three small-mesh species. However, the Council is expected to set the acceptable biological catch (ABC) limits based on recommendations from its Scientific and Statistical Committee (SSC), at its September 2011 meeting. The SSC has recommended separate ABCs by stock or stock group: Northern red hake, southern red hake, northern silver hake, and a combined southern ''whiting'' ABC for the southern stock of silver hake and offshore hake. The Whiting Advisory Panel (AP) and the Oversight Committee will be recommending management alternatives at the Council's September meeting as well. NMFS intends to use the Council's ABC and a subset of the Advisory Panel and Committee's recommendations in the Secretarial Amendment.

After the public hearings are completed, NMFS will make a decision regarding the management measures to include in the Secretarial Amendment and will publish a proposed rule and a notice of availability for the amendment. After the 60-day proposed rule/notice of availability comment period, NMFS will publish a final rule. The final rule will remain in effect until the Council's Amendment 19, if approved, is implemented.

Public Comments

To help determine the scope of issues to be addressed and to identify significant issues related to this action, NMFS is soliciting written comments on this ANPR and will hold public meetings in four locations. All of the public meetings will take place from 4 p.m. to 7 p.m., at the locations listed below. The public is encouraged to submit comments related to the specific ideas mentioned in this ANPR. All written comments received by the due date will be considered in drafting the proposed rule.

- Monday, October 3, 2011, from 4 p.m. to 7 p.m., at the New York Department of Environmental Conservation Marine Resources Headquarters, 205 Belle Mead Road, Suite 1, East Setauket, NY.
- Tuesday, October 4, 2011, from 4 p.m. to 7 p.m., at the Ocean County Administration Building, Room 119, 101 Hooper Avenue, Toms River, NJ.
- Tuesday, October 11, 2011, from 4 p.m. to 7 p.m., at the Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA.
- Wednesday, October 12, 2011, from 4 p.m. to 7 p.m., at Narragansett Town Hall, 25 Fifth Avenue, Narragansett, RI.

Issues Under Consideration

Based on information from prior Whiting Advisory Panel and Oversight Committee meetings, NMFS is considering several options for the Secretarial Amendment. NMFS will seek public comment on the scope of this ANPR and requests public input on the following options. For each option, NMFS will propose setting an ACL for the same four stocks or stock groups as the SSC's recommendations. Annual catch targets (ACTs) would be used to account for management uncertainty, and would be set at a proportion of the ACL (75 percent, for example). Discards would be deducted from the ACT to establish the total allowable landings (TAL). The differences among the options would be the allocation of the TALs.

1. ACLs, ACTs, TALs by stock: This option would establish ACLs, ACTs, and TALs for each of the four stocks or stock grouping for which the Council's SSC set an ABC. The Whiting AP recently recommended this approach for the southern TALs (southern red hake and the southern combined whiting TAL), but not for the northern TALs (northern red hake and northern silver hake).

2. Northern TALs subdivided by area according to historic landings proportion: The Whiting AP suggested this approach at a recent meeting. The ACLs, ACTs, and TALs would be set as in Option 1, but the northern area TALs would be further subdivided into three TALs: Cultivator Shoal Exemption Area TAL, Other Exemption Areas TAL, and an incidental TAL. The ''Other Exemption Areas'' would consist of the Gulf of Maine Grate Raised Footrope Trawl Area, Small Mesh Areas I and II, and the Raised Footrope Trawl Areas near Cape Cod. The allocation would be made by historic landing proportion so that each area is given the opportunity to land proportionally the same amount of the overall catch limit as it has in recent years. The AP recommended using fishing years 2004–2010 to determine the appropriate proportions.

3. TALs subdivided equally by exemption area: The ACLs, ACTs, and TALs would be set as in Option 2, but the northern area TALs would be further subdivided by equally across the three areas.

4. AMs: NMFS is considering a combination of ''proactive'' and ''reactive'' accountability measures. The proactive AMs would be the use of ACTs and in-season closure authority when a TAL is projected to be reached. The reactive AM would be ACL and TAL specific pound-for-pound pay back of any overage above the catch limit or target.

5. NMFS is suggesting that no other management measures be introduced or modified through the Secretarial Amendment, in order to keep the measures as simple as possible while meeting the action's objectives.

Special Accommodations

The public meeting will be accessible to people with physical disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Debra Lambert (301–713–2341), at least 7 days prior to the meeting.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 13, 2011.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2011–24013 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

RIN 0648–BA55

Fisheries Off West Coast States; West Coast Salmon Fisheries; Notice of Availability for Amendment 16 to the Salmon Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Availability of amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council

(Council) has submitted Amendment 16 to the Pacific Coast Salmon Fishery Management Plan (FMP) for Secretarial review. Amendment 16 would modify the FMP to implement National Standard 1 Guidelines (NS1Gs) adopted by NMFS under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA). These guidelines are intended to prevent and end overfishing and rebuild fisheries through implementation of status determination criteria, overfishing limits, annual catch limits, and accountability measures. Amendment 16 would also set new conservation objectives and *de minimis* fishing rate provisions.

DATES: Comments on Amendment 16 must be received on or before November 18, 2011.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2011–0227, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''Submit a Comment'' icon, then enter NOAA–NMFS–2011–0227 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Mail:* William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115–0070 or to Rod McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.
- *Fax:* 206–526–6736 Attn: Peggy Busby, or 562–980–4047 Attn: Heidi Taylor.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the amendment may be obtained from the Council Web site at *http://pcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Peggy Busby at 206–526–4323, or Heidi Taylor at 562–980–4039.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries in the exclusive economic zone off Washington, Oregon, and California are managed under a ''framework'' fishery management plan entitled the Pacific Coast Salmon Fishery Management Plan (FMP). The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA) requires that each regional fishery management council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The MSRA also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve Amendment 16 to the FMP.

On January 16, 2009 (74 FR 3178), NMFS adopted revisions to its guidelines implementing MSRA National Standard 1 (NS1Gs) to prevent and end overfishing and rebuild fisheries. In particular, the revised guidelines provide guidance on implementation of the new statutory requirement for annual catch limits (ACLs). The revised guidelines also include new requirements for accountability measures (AMs) and other provisions regarding preventing and ending overfishing and rebuilding fisheries. To comply with the statute and these new guidelines, Amendment 16 to the Salmon FMP would reorganize and classify stocks in the FMP to conform with requirements of the NS1Gs, to establish status determination criteria, establish a framework for defining reference points related to overfishing limits (OFL), acceptable biological catch (ABC), and annual catch limits (ACLs), and establish appropriate accountability measures (AM) necessary to prevent the ACLs from being exceeded, and to mitigate any overages that may occur. Amendment 16 would also set new conservation objectives for Klamath River fall Chinook salmon and Sacramento River fall Chinook salmon, and would specify *de minimis* fishing rate provisions to address management in years of low abundance. Other conservation objectives would also be revised and updated as needed to conform with the best available science.

NMFS welcomes comments on the proposed FMP amendment through the end of the comment period. A proposed rule to implement Amendment 16 has been submitted for Secretarial review and approval. NMFS expects to publish and request public review and comment on proposed regulations to implement Amendment 16 in the near future. Public comments on the proposed rule must be received by the end of the comment period on the amendment to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period for the amendment, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2011.

Steven Thur,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–23988 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 76, No. 181
Monday, September 19, 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.

COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY

Senior Executive Service Performance Review Board Membership

AGENCY: Council of the Inspectors General on Integrity and Efficiency.

ACTION: Notice.

SUMMARY: This notice sets forth the names and titles of the current membership of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Performance Review Board as of October 1, 2011.

DATES: *Effective Date:* October 1, 2011.

FOR FURTHER INFORMATION CONTACT: Individual Offices of Inspectors General at the telephone numbers listed below.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Act of 1978, as amended, created the Offices of Inspectors General as independent and objective units to conduct and supervise audits and investigations relating to Federal programs and operations. The Inspector General Reform Act of 2008, established the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well-trained and highly skilled workforce in the Offices of Inspectors General. The CIGIE is an interagency council whose executive chair is the Deputy Director for Management, Office of Management and Budget, and is comprised principally of the 73 Inspectors General (IGs).

II. CIGIE Performance Review Board

Under 5 U.S.C. 4314(c)(1)–(5), and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current members of the Council of the Inspectors General on Integrity and Efficiency Performance Review Board, as of October 1, 2011, are as follows:

Agency for International Development

Phone Number: (202) 712–1150.
CIGIE Liaison—Thereasa L. Lyles (202) 712–1393.
Michael G. Carroll—Deputy Inspector General.
Joseph Farinella (SFS)—Assistant Inspector General for Audit.
Melinda Dempsey—Deputy Assistant Inspector General for Audit.
Howard I. Hendershot—Assistant Inspector General for Investigations.
Alvin A. Brown—Assistant Inspector General, Millennium Challenge Corporation.
Lisa Goldfluss—Legal Counsel.

Department of Agriculture

Phone Number: (202) 720–8001.
CIGIE Liaison—Dina J. Barbour (202) 720–8001.
David R. Gray—Deputy Inspector General.
Christy A. Slamowitz—Counsel to the Inspector General.
Robert W. Young—Special Assistant to the Inspector General for the Recovery Act.
Gilroy Harden—Assistant Inspector General for Audit.
Rodney G. DeSmet—Deputy Assistant Inspector General for Audit.
Tracy A. LaPoint—Deputy Assistant Inspector General for Audit.
Steven H. Rickrode, Jr.—Deputy Assistant Inspector General for Audit.
Karen L. Ellis—Assistant Inspector General for Investigations.
Kathy C. Horsley—Deputy Assistant Inspector General for Investigations.
Suzanne M. Murrin—Assistant Inspector General for Management.

Department of Commerce

Phone Number: (202) 482–4661.
CIGIE Liaison—Randall Popelka (202) 482–5422.
Wade Green, Jr.—Counsel to the Inspector General.
Scott Dahl—Deputy Inspector General.
Allen Crawley—Assistant Inspector General for Systems Acquisition and IT Security.
Ronald C. Prevost—Assistant Inspector General for Economic and Statistical Program Assessment.

Department of Defense

Phone Number: (703) 604–8324.
CIGIE Liaison—John R. Crane (703) 604–8324.
Michael S. Child—Chief of Staff.
James B. Burch—Deputy Inspector General for Investigations.
Patricia A. Brannin—Deputy Inspector General for Intelligence and Special Program Assessments.
James R. Ives—Assistant Inspector General for Investigative Operations.
John R. Crane—Assistant Inspector General for Communications and Congressional Liaison.

Department of Education

Phone Number: (202) 245–6900.
CIGIE Liaison—Teri Clark (202) 245–6340.
Mary Mitchelson—Deputy Inspector General.
Wanda Scott—Assistant Inspector General for Evaluations, Inspections and Management Services.
Keith West—Assistant Inspector General for Audit.
Patrick Howard—Deputy Assistant Inspector General for Audit.
William Hamel—Assistant Inspector General for Investigations.
Lester Fernandez—Deputy Assistant Inspector General for Investigations.
Charles Coe—Assistant Inspector General for Information Technology Audits and Computer Crime Investigations.
Marta Erceg—Counsel to the Inspector General.

Department of Energy

Phone Number: (202) 586–4393.
CIGIE Liaison—Juston Fontaine (202) 586–1959.
John Hartman—Deputy Inspector General for Investigations.
Rickey Hass—Deputy Inspector General for Audits and Inspections.
Linda Snider—Deputy Inspector General for Management and Administration.
George Collard—Assistant Inspector General for Audits.

Sanford Parnes—Assistant Inspector General for Inspections.

Department of Health and Human Services

Phone Number: (202) 619–3148.
CIGIE Liaison—Sheri Denkensohn (202) 205–9492 and Elise Stein (202) 619–2686.
Larry Goldberg—Principal Deputy Inspector General.
Joanne Chiedi—Deputy Inspector General for Management and Policy.
Paul Johnson—Assistant Inspector General for Management and Policy (Chief Operating Officer).
Robert Owens, Jr.—Assistant Inspector General for Information Technology (Chief Information Officer).
Gerald Roy—Deputy Inspector General for Investigations.
Gary Cantrell—Assistant Inspector General for Investigations.
Jay Hodes—Assistant Inspector General for Investigations.
Stuart E. Wright—Deputy Inspector General for Evaluation and Inspections.
Lewis Morris—Chief Counsel to the Inspector General.
Greg Demske—Assistant Inspector General for Legal Affairs.
Brian Ritchie—Assistant Inspector General for Centers for Medicare & Medicaid Audits.

Department of Homeland Security

Phone Number: (202) 254–4100.
CIGIE Liaison—Erica Paulson (202) 254–0938.
Matthew A. Jadacki—Assistant Inspector General for Emergency Management Oversight.
Richard N. Reback—Counsel to the Inspector General.
Anne L. Richards—Assistant Inspector General for Audits.
Mark Bell—Deputy Assistant Inspector General for Audits.
John E. McCoy II—Deputy Assistant Inspector General for Audits.
Carlton I. Mann—Assistant Inspector General for Inspections.
Thomas M. Frost—Assistant Inspector General for Investigations.
James Gaughran—Deputy Assistant Inspector General for Investigations.
Wayne H. Salzgaber—Deputy Assistant Inspector General for Investigations.
Frank Deffer—Assistant Inspector General for Information Technology.

Department of Housing and Urban Development

Phone Number: (202) 708–0430.
CIGIE Liaison—Helen Albert (202) 708–0614, Ext. 8187.
John McCarty—Assistant Inspector General for Inspections and Evaluations.
Lester Davis—Deputy Assistant Inspector General for Investigations.
Randy McGinnis—Assistant Inspector General for Audit.
Brenda Patterson—Deputy Assistant Inspector General for Audit.
Helen Albert—Assistant Inspector General for Management and Policy.
Frank Rokosz—Deputy Assistant Inspector General for Audit.

Department of the Interior

Phone Number: (202) 208–5745.
CIGIE Liaison—Deborah Holmes (202) 208–5745.
Stephen Hardgrove—Chief of Staff.
Kimberly Elmore—Assistant Inspector General for Audits, Inspections and Evaluations.
John Dupuy—Assistant Inspector General for Investigations.
Eddie Saffarinia—Assistant Inspector General for Information Technology.
Bruce Delaplaine—General Counsel.
Roderick Anderson—Assistant Inspector General for Management.
Robert Knox—Assistant Inspector General for Recovery Oversight.

Department of Justice

Phone Number: (202) 514–3435.
CIGIE Liaison—Jay Lerner (202) 514–3435.
Cynthia Schnedar—Deputy Inspector General.
William M. Blier—General Counsel.
Raymond J. Beaudet—Assistant Inspector General for Audit.
Carol F. Ochoa—Assistant Inspector General for Oversight and Review.
Gregory T. Peters—Assistant Inspector General for Management and Planning.
Thomas F. McLaughlin—Assistant Inspector General for Investigations.
Michael D. Gulledge—Assistant Inspector General for Evaluation and Inspections.
Caryn A. Marske—Deputy Assistant Inspector General for Audit.
George L. Dorsett—Deputy Assistant Inspector General for Investigations.

Department of Labor

Phone Number: (202) 693–5100.
CIGIE Liaison—Christopher Seagle (202) 693–5231.
Daniel R. Petrole—Acting Inspector General.
Nancy F. Ruiz de Gamboa—Assistant Inspector General for Management and Policy.
Thomas F. Farrell—Assistant Inspector General for Labor Racketeering and Fraud Investigations.
Elliot P. Lewis—Assistant Inspector General for Audit.
Michael A. Raponi—Deputy Assistant Inspector General for Audit.
Howard L. Shapiro—Counsel to the Inspector General.
Richard Clark—Deputy Assistant Inspector General for Labor Racketeering and Fraud Investigations.
Asa E. Cunningham—Assistant Inspector General for Inspections and Special Investigations.

Department of State and the Broadcasting Board of Governors

Phone Number: (202) 663–0361.
CIGIE Liaison—Michael Wolfson (703) 284–2710.
Robert B. Peterson—Assistant Inspector General for Inspections.
Evelyn R. Klemstine—Assistant Inspector General for Audits.
Erich O. Hart—General Counsel.

Department of Transportation

Phone Number: (202) 366–1959.
CIGIE Liaison—Nathan P. Richmond (202) 366–1959.
Calvin L. Scovel III—Inspector General.
Ann M. Calvaressi Barr—Deputy Inspector General.
Brian A. Dettelbach—Assistant Inspector General for Legal, Legislative, and External Affairs.
Susan L. Dailey—Assistant Inspector General for Administration.
Timothy M. Barry—Principal Assistant Inspector General for Investigations.
Robert Westbrooks—Deputy Assistant Inspector General for Investigations.
Lou E. Dixon—Principal Assistant Inspector General for Auditing and Evaluation.
Jeffrey B. Guzzetti—Assistant Inspector for Aviation and Special Program Audits.
Matthew E. Hampton—Deputy Assistant Inspector General for Aviation and Special Program Audits.
Louis King—Assistant Inspector General for Financial and Information Technology Audits.
Joseph W. Comé—Assistant Inspector General for Highway and Transit Audits.
Thomas Yatsco—Deputy Assistant Inspector General for Highway and Transit Audits.
Mitchell L. Behm—Assistant Inspector General for Rail, Maritime and Economic Analysis.
Mary Kay Langan-Feirson—Assistant Inspector General for Acquisition and Procurement Audits.

Department of the Treasury

Phone Number: (202) 622–1090.
CIGIE Liaison—Tricia Hollis (202) 927–5835.
Richard K. Delmar—Counsel to the Inspector General.
Debra Ritt—Special Deputy IG for Small Business Lending Fund Program Oversight.

Tricia Hollis—Assistant Inspector General for Management.
P. Brian Crane—Assistant Inspector General for Investigations.
Marla A. Freedman—Assistant Inspector General for Audit.
Robert A. Taylor—Deputy Assistant Inspector General for Audit (Program Audits).
Joel Grover—Deputy Assistant Inspector General for Audit (Financial Management Audits).

Treasury Inspector General for Tax Administration/Department of the Treasury

Phone Number: (202) 622–6500.
CIGIE Liaison— Judith Grady (202) 622–6500.
Joseph Hungate, III—Principal Deputy Inspector General.
Michael Phillips—Deputy Inspector General for Audit.
Margaret Begg—Assistant Inspector General for Audit (Compliance and Enforcement Operations).
Michael Delgado—Assistant Inspector General for Investigations.
Alan Duncan—Assistant Inspector General for Audit (Security & Information Technology Services).
John Fowler—Deputy Assistant Inspector General for Investigations.
David Holmgren—Deputy Inspector General for Inspections and Evaluations.
Timothy Camus—Deputy Inspector General for Investigations.
Larry Koskinen—Associate Inspector General for Mission Support.
Mike McKenney—Assistant Inspector General for Audit (Returns Processing and Account Services).
Nancy Nakamura—Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations).

Department of Veterans Affairs

Phone Number: (202) 461–4720.
CIGIE Liaison—Joanne Moffett (202) 461–4720.
Richard Griffin—Deputy Inspector General.
Maureen Regan—Counselor to the Inspector General.
James O'Neill—Assistant Inspector General for Investigations.
Joseph Sullivan—Deputy Assistant Inspector General for Investigations (Field Operations).
Joseph Vallowe—Deputy Assistant Inspector General for Investigations (HQs Operations).
Belinda Finn—Assistant Inspector General for Audits and Evaluations.
Linda Halliday—Deputy Assistant Inspector General for Audits and Evaluations (Field Operations).
Sondra McCauley—Deputy Assistant Inspector General for Audits and Evaluations (HQs Management and Inspections).
Richard Ehrlichman—Assistant Inspector General for Management and Administration.
Dana Moore—Deputy Assistant Inspector General for Management and Administration.
John Daigh—Assistant Inspector General for Healthcare Inspections.
Patricia Christ—Deputy Assistant Inspector General for Healthcare Inspections.

Environmental Protection Agency

Phone Number: (202) 566–0847.
CIGIE Liaison—Aracely Nunez-Mattocks (202) 566–2546.
Aracely Nunez-Mattocks—Chief of Staff to the Inspector General.
J. Anthony Ogden—Counsel to the Inspector General.
Eileen McMahon—Assistant Inspector General for Congressional, Public Affairs and Management.
Melissa Heist—Assistant Inspector General for Audit.
Patrick Sullivan—Assistant Inspector General for Investigations.
Wade Najjum—Assistant Inspector General for Program Evaluation.
Stephen Nesbitt—Assistant Inspector General for Cyber Investigations and Homeland Security.
Patricia Hill—Assistant Inspector General for Mission Systems.

Federal Trade Commission

Phone Number: (202) 326–2800.
CIGIE Liaison—Cynthia Hogue (202) 326–2800.
John Seeba—Inspector General.

General Services Administration

Phone Number: (202) 501–0450.
CIGIE Liaison—Sarah S. Breen (202) 219–1351.
Robert C. Erickson—Deputy Inspector General.
Richard P. Levi—Counsel to the Inspector General.
Theodore R. Stehney—Assistant Inspector General for Auditing.
Regina M. O'Brien—Deputy Assistant Inspector General for Auditing.
Geoffrey Cherrington—Assistant Inspector General for Investigations.
Lee Quintyne—Deputy Assistant Inspector General for Investigations.

National Aeronautics and Space Administration

Phone Number: (202) 358–1220.
CIGIE Liaison—Renee Juhans (202) 358–1712.
Gail Robinson—Deputy Inspector General.
Frank LaRocca—Counsel to the Inspector General.
Kevin Winters—Assistant Inspector General for Investigations.
James Morrison—Assistant Inspector General for Audits.
Alan Lamoreaux—Assistant Inspector General for Management and Planning.

National Archives and Records Administration

Phone Number: (301) 837–3000.
CIGIE Liaison—John Simms (301) 837–1966.
Paul Brachfeld—Inspector General.

National Endowment for the Arts

Phone Number: (202) 682–5774.
CIGIE Liaison—Tonie Jones (202) 682–5402.
Tonie Jones—Inspector General.

National Endowment for the Humanities

Phone Number: (202) 606–8350.
CIGIE Liaison—Laura M.H. Davis (202) 606–8574.
Laura Davis—(Acting) Inspector General.

National Credit Union Administration

Phone Number: (703) 518–6351.
CIGIE Liaison—William DeSarno (703) 518–6351.
James Hagen—Deputy Inspector General.

National Science Foundation

Phone Number: (703) 292–7100.
CIGIE Liaison—Susan Carnohan (703) 292–5011 & Maury Pully (703) 292–5059.
Allison C. Lerner—Inspector General.
Thomas (Tim) Cross—Deputy Inspector General.
Brett M. Baker—Assistant Inspector General for Audit.
Peggy Fischer—Assistant Inspector General for Investigations.

Peace Corps

Phone Number: (202) 692–2900.
CIGIE Liaison—Joaquin Ferrao (202) 692–2921.
Kathy Buller—Inspector General (Foreign Service).

Nuclear Regulatory Commission

Phone Number: (301) 415–5930.
CIGIE Liaison—Deborah S. Huber (301) 415–5930.
David C. Lee—Deputy Inspector General.
Stephen D. Dingbaum—Assistant Inspector General for Audits.
Joseph A. McMillan—Assistant Inspector General for Investigations.

Office of Personnel Management

Phone Number: (202) 606–1200.

CIGIE Liaison—Joyce D. Price (202) 606–2156.
Norbert E. Vint—Deputy Inspector General.
Terri Fazio—Assistant Inspector General for Management.
Michael R. Esser—Assistant Inspector General for Audits.
Michelle B. Schmitz—Assistant Inspector General for Investigations.
J. David Cope—Assistant Inspector General for Legal Affairs.
Jeffery E. Cole—Deputy Assistant Inspector General for Audits.
Kimberly A. McKinley—Deputy Assistant Inspector General for Investigations.

Railroad Retirement Board

Phone Number: (312) 751–4690.
CIGIE Liaison—Jill Roellig (312) 751–4993.
William Tebbe—Assistant Inspector General for Investigations.

Small Business Administration

Phone Number: (202) 205–6586.
CIGIE Liaison—Robert F. Fisher (202) 205–6583.
Peter L. McClintock—Deputy Inspector General.
Glenn P. Harris—Counsel to the Inspector General.
John K. Needham—Assistant Inspector General for Auditing.
Daniel J. O'Rourke—Assistant Inspector General for Investigations.
Robert F. Fisher—Assistant Inspector General for Management and Policy.

Social Security Administration

Phone Number: (410) 966–8385.
CIGIE Liaison—Misha Kelly (202) 358–6319.
Gale Stone—Deputy Assistant Inspector General for Audit.
B. Chad Bungard—Counsel to the Inspector General.
Steve Mason—Deputy Assistant Inspector General for Investigations.
Michael Robinson—Assistant Inspector General for Technology and Resource Management.

Special Inspector General for Troubled Asset Relief Program

Phone Number: (202) 622–2658.
CIGIE Liaison—(202) 622–2658.
Christy Romero—Deputy Special Inspector General.
Kurt Hyde—Deputy Special Inspector General, Audit.
Kimberly Caprio—Assistant Deputy Special Inspector General, Audit.
Scott Rebein—Deputy Special Inspector General, Investigations.
Roderick Fillinger—General Counsel.
Cathy Alix—Deputy Special Inspector General, Operations.
Mia Levine—Chief of Staff.

United States Postal Service

Phone Number: (703) 248–2100.
CIGIE Liaison—Agapi Doulaveris (703) 248–2286.
Elizabeth Martin—General Counsel.
Gladis Griffith—Deputy General Counsel.
Ron Stith—Assistant Inspector General, Mission Support.
David Sidransky—Chief Information Officer.
Lance Carrington—Deputy Assistant Inspector General for Investigations—West.
Mark Duda—Deputy Assistant Inspector General for Audits—Support Operations.

Dated: September 8, 2011.

Mark D. Jones,

Executive Director, Council of the Inspectors General on Integrity and Efficiency.

[FR Doc. 2011–23972 Filed 9–16–11; 8:45 am]

BILLING CODE 6820–C9–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ashley Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ashley Resource Advisory Committee will conduct a field review of five projects funded in 2011. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to conduct a field review of five projects funded for implementation, approve meeting minutes, review the status of approved projects, set the next meeting date, time and location and receive public comment.

DATES: The field review will be held September 29, 2011, from 9 a.m. to 1 p.m. The business meeting will be held from 1 p.m. to 3 p.m.

ADDRESSES: The business meeting will be held in the conference room at Red Canyon Lodge at 2450 W. Red Canyon Lodge Dutch John, Utah 84023. Written comments should be sent to Ashley National Forest, 355 North Vernal Avenue, Vernal, UT 84078. Comments may also be sent via e-mail to *ljhaynes@fs.fed.us,* or via facsimile to 435–781–5142.

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 Ashley National Forest, 355 North Vernal Avenue, Vernal, UT.

FOR FURTHER INFORMATION CONTACT: Louis Haynes, RAC Coordinator, Ashley National Forest, (435) 781–5105; e-mail: *ljhaynes@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The business meeting is open to the public. The following business will be conducted: (1) Welcome and roll call; (2) Approval of meeting minutes; (3) Review of approved projects; (4) review of next meeting purpose, location, and date; (5) Receive public comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 28, 2011 will have the opportunity to address the committee at these meetings.

Dated: September 12, 2011.

Nicholas T. Schmelter,

Acting Forest Supervisor.

[FR Doc. 2011–23872 Filed 9–16–11; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting and press conference of the New Hampshire Advisory Committee to the Commission will be held at the Legislative Office Building, Room 207, 33 North State Street, Concord, NH, 03301, and will convene at 10 a.m. on Thursday, September 29, 2011. The purpose of the planning meeting is to plan future activities. The purpose of the press conference is provide an update on the Committee's report on gender disparities in state prisons.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Friday, October 28, 2011. Comments may be mailed to the

Eastern Regional Office, U.S. Commission on Civil Rights, 624 9th Street, NW., Suite 740, Washington, DC 20425, fax to (202) 376–7548, or e-mail to *ero@usccr.gov*. Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Deaf or hearing-impaired persons who will attend the meeting(s) and require the services of a sign language interpreter should contact the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting. Persons needing accessibility services should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *http://www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Washington, DC, on September 13, 2011.

Peter Minarik,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2011–23837 Filed 9–16–11; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the U.S. International Trade Commission (USITC) that revocation of the antidumping duty order on glycine from the People's Republic of China (PRC) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of this antidumping duty order.

DATES: *Effective Date:* September 19, 2011.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Angelica Mendoza, AD/CVD Operations Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–8029 and (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 29, 1995, the Department published the antidumping duty order on glycine from the PRC. *See Antidumping Duty Order: Glycine From the People's Republic of China,* 60 FR 16116 (March 29, 1995). On October 1, 2010, the Department initiated the third sunset review of the antidumping duty order on glycine from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 75 FR 60731 (October 1, 2010).

As a result of this sunset review, the Department determined that revocation of the antidumping duty order on glycine from the PRC would likely lead to continuation or recurrence of dumping and, therefore, notified the USITC of the magnitude of the margins likely to prevail should the order be revoked. *See Notice of Final Results of Expedited Sunset Review of the Antidumping Duty Order: Glycine From the People's Republic of China,* 76 FR 7150 (February 9, 2011) and accompanying Issues and Decision Memorandum.

On August 30, 2011, the USITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on glycine from the PRC would be likely to lead to a continuation or recurrence of material injury to an industry in the United Sates within a reasonably foreseeable time. *See Glycine from China,* 76 FR 55109 (September 6, 2011), and USITC Publication 4255 (August 2011), titled *Glycine from China: Investigation No. 731–TA–718 (Third Review).*

Scope of the Order

The product covered by the order is glycine, which is a free-flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This order covers glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.[1]

Continuation of the Order

As a result of the determinations by the Department and the USITC that revocation of the antidumping duty order on glycine would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on glycine from the PRC.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of this order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next sunset review of this order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year (sunset) review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: September 12, 2011.

Christian Marsh,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–24008 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–901]

Certain Lined Paper Products From the People's Republic of China: Notice of Final Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* September 19, 2011.

FOR FURTHER INFORMATION CONTACT: Joy Zhang or Victoria Cho, AD/CVD

[1] In a separate scope ruling, the Department determined that D(−) Phenylglycine Ethyl Dane Salt is outside the scope of the order. *See Notice of Scope Rulings,* 62 FR 62288 (November 21, 1997).

Operations, Office 3, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1168 or (202) 482–5075, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2010, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on lined paper from the People's Republic of China (''PRC''), for the period September 1, 2009, through August 31, 2010. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review,* 75 FR 53635 (September 1, 2010). On September 30, 2010, we received a request from petitioner [1] to review the following four companies: Shanghai Lian Li Paper Products Co., Ltd. (''Lian Li''), Hwa Fuh Plastics Co., Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (''Hwa Fuh/Li Teng''),[2] Leo's Quality Products Co., Ltd./Denmax Plastic Stationery Factory (''Leo/Denmax''); and the Watanabe Group (consisting of Watanabe Paper Products (Shanghai) Co., Ltd. (''Watanabe Shanghai''); Watanabe Paper Products (Linqing) Co., Ltd. (''Watanabe Linqing''); and Hotrock Stationery (Shenzhen) Co., Ltd. (''Hotrock Shenzhen'') (hereafter referred to as ''Watanabe'' or the ''Watanabe Group''). On October 28, 2010, we published in the **Federal Register** the notice of initiation of this antidumping duty administrative review with respect to Lian Li, Leo/Denmax, and the Watanabe Group. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 75 FR 66349 (October 28, 2010) (''*Initiation Notice*'').

On June 13, 2011, we preliminarily rescinded this review with respect to Leo/Denmax, Lian Li, and the Watanabe Group based on evidence on the record indicating that Leo/Denmax, Lian Li, and the Watanabe Group had no shipments of subject merchandise which entered the United States during the period September 1, 2009, through August 31, 2010. *See Certain Lined Paper Products From the People's Republic of China; Notice of Preliminary Intent To Rescind the Antidumping Duty Administrative Review,* 76 FR 34204 (June 13, 2011) (''*Preliminary Rescission*''). We invited interested parties to submit comments on our *Preliminary Rescission.* We did not receive any comments on our *Preliminary Rescission.*

Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or ''tear-out'' size), and are measured as they appear in the product (*i.e.,* stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto. Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
- Writing pads with a backing (including but not limited to products commonly known as ''tablets,'' ''note pads,'' ''legal pads,'' and ''quadrille pads''), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- Index cards;
- Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- Newspapers;
- Pictures and photographs;
- Desk and wall calendars and organizers (including but not limited to such products generally known as ''office planners,'' ''time books,'' and ''appointment books'');
- Telephone logs;
- Address books;
- Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- Lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- Lined continuous computer paper;
- Boxed or packaged writing stationary (including but not limited to products commonly known as ''fine business paper,'' ''parchment paper'', and ''letterhead''), whether or not containing a lined header or decorative lines;
- Stenographic pads (''steno pads''), Gregg ruled (''Gregg ruling'' consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found

[1] The petitioner is the Association of American School Paper Suppliers (''AASPS'').

[2] The Department was unable to locate Hwa Fuh/Li Teng in prior segments. The petitioner did not provide any new information as to Hwa Fuh/Li Teng's location in its review request letter. Accordingly, pursuant to 19 CFR 351.303(f)(3)(ii), the Department did not accept a request for an administrative review of Hwa Fuh/Li Teng.

to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1″ wide elastic fabric band. This band is located 2⅜″ from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

• FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Period of Review (''POR'')

The POR is September 1, 2009, through August 31, 2010.

Final Rescission of Review

Because there is no information on the record which indicates that the Watanabe Group, Lian Li, and Leo/Denmax made shipments of subject merchandise which entered the United States during the POR, and because we did not receive any comments on our *Preliminary Rescission,* in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are rescinding this review of the antidumping duty order on certain lined paper products from the PRC for the period of September 1, 2009, through August 31, 2010. The cash deposit rate for the Watanabe Group, Lian Li, and Leo/Denmax will continue to be the rate established in the most recently completed segment of this proceeding.

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department will issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a final reminder to importers for whom this review is being rescinded, as of the publication date of this notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 12, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–24009 Filed 9–16–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–815]

Light-Walled Rectangular Pipe and Tube From Turkey; Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 8, 2011, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on light-walled rectangular pipe and tube from Turkey. *See Light-Walled Rectangular Pipe and Tube From Turkey; Notice of Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 33200 (June 8, 2011) (*Preliminary Results*). We gave interested parties an opportunity to comment on the *Preliminary Results,* but we received no comments.

DATES: *Effective Date:* September 19, 2011

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2011, the Department published the preliminary results of administrative review of the antidumping duty order covering light-walled rectangular pipe and tube from Turkey. *See Preliminary Results.* The respondent subject to this review is Noksel Celik Boru Sanayi A.S., (Noksel). The petitioners in this proceeding are Atlas Tube, Inc. and Searing Industries, Inc. (collectively, Petitioners).

In the *Preliminary Results,* the Department stated that interested parties were to submit case briefs within 30 days of publication of the *Preliminary Results* and rebuttal briefs within five days after the due date for filing case briefs. *See Preliminary Results,* 76 FR at 33204. No interested party submitted briefs. We have made no changes for the final results.

Period of Review

The period of review (POR) is May 1, 2009, through April 30, 2010.

Scope of the Order

The merchandise subject to this order is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and U.S. Customs and Border Protection (CBP) purposes, our written description of the scope of the order is dispositive.

Final Results of Review

The Department has determined that the following margins exist for the period May 1, 2009, through April 30, 2010:

Manufacturer	Weighted Average Margin (percentage)
Noksel Celik Boru Sanayi A.S	0.00

Assessment Rates

Pursuant to these final results, the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific (or customer-specific) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific (or customer-specific) assessment rate calculated in the final results of this review is above *de minimis.*

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties).* This clarification will apply to entries of subject merchandise during the POR produced by Noksel for which Noksel did not know the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the 27.04 percent all-others rate from the less than fair value (LTFV) investigation if there is no company-specific rate for an intermediary involved in the transaction. *See Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube From Turkey,* 73 FR 31065 (May 30, 2008). *See Assessment of Antidumping Duties* for a full discussion of this clarification.

Cash Deposit Requirements

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of light-walled rectangular pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(c) of the Tariff Act of 1930, as amended (the Act): (1) The cash deposit rate for Noksel will be the rate established in the final results of review; (2) if the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all-others rate 27.04 percent *ad valorem* from the LTFV investigation. *Id.* These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or

destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 12, 2011.

Christian Marsh,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–24007 Filed 9–16–11; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–833]

Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 21, 2011, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan. The period of review is May 1, 2009, through April 30, 2010. We gave interested parties an opportunity to comment on the preliminary results. We received comments from Far Eastern New Century Corporation. The final weighted-average dumping margin for Far Eastern New Century Corporation is listed below in the ''Final Results of the Review'' section of this notice.

DATES: *Effective Date:* September 19, 2011.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–0198.

Background

On April 21, 2011, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan. See *Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 22366 (April 21, 2011) (*Preliminary Results*). We invited interested parties to comment on the *Preliminary Results.* We received comments from the respondent.

The Department has conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the order is polyester staple fiber (PSF). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the order. Also specifically excluded from the order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Analysis of Comments Received

All issues raised in the case briefs by parties to this review are addressed in the ''Issues and 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 (Decision Memorandum), and hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded in the Decision Memorandum is attached to this notice as an Appendix. The Decision Memorandum, which is a public document, is on file in the Department's Central Records Unit of the main Commerce building, Room 7046, and is accessible on the Internet at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Results of Cost Test

For these final results, we continue to find that, for certain products, more than 20 percent of the respondent's sales in the home market were at prices below the cost of production and the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not permit the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales of the same product as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

Final Results of the Review

We made one change to our calculations announced in the *Preliminary Results.* In calculating the cost of production in the *Preliminary Results,* we inadvertently used the ratio for general and administrative expenses reported by Far Eastern New Century Corporation in its initial response to our questionnaire rather than a correction to this ratio which the respondent provided in a subsequent submission. In these final results we employed the subsequently reported ratio. This change had no effect on the weighted-average dumping margin determined for Far Eastern New Century Corporation. As a result of our review, we determine that a weighted-average dumping margin of 2.92 percent exists for Far Eastern New Century Corporation for the period May 1, 2009, through April 30, 2010.

Assessment Rates

The Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Although Far Eastern New Century Corporation indicated that it was not the importer of record for any of its sales to the United States during the period of review, it reported the names of the importers of record for all of its U.S. sales. Because Far Eastern New Century Corporation also reported the entered value for all of its U.S. sales, we have calculated importer-specific assessment rates for the merchandise in question by

aggregating the dumping margins we calculated for all U.S. sales to each importer and dividing this amount by the total entered value of those sales.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the period of review produced by Far Eastern New Century Corporation for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

The Department intends to issue assessment instructions directly to CBP 15 days after publication of these final results of review.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of PSF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash-deposit rate for Far Eastern New Century Corporation will be 2.92 percent; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or previous reviews, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 7.31 percent, the all-others rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan,* 65 FR 33807 (May 25, 2000). These cash-deposit requirements shall remain in effect until further notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 13, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

1. Zeroing
2. G&A Ratio

[FR Doc. 2011–24010 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Executive Business Development Mission; Clarification and Amendment

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS) is publishing this supplement to the Notice of the Renewable Energy and Energy Efficiency Executive Business Development Mission, 76 FR, No. 140, July 21, 2011, to clarify eligibility and amend the Notice to revise the dates and provide for selection of applicants on a rolling basis.

SUPPLEMENTARY INFORMATION:

Amendments To Revise the Dates and Provide for Selection of Applicants on a Rolling Basis

Background

Recruitment for this Mission began at the end of June, and some pending applicants have indicated a need to finalize their schedules and travel arrangements for upcoming holidays and end of fiscal 2011 year financial reports. Rather than wait until after the October 17, 2011 deadline to vet all applicants and make selection decisions, CS is amending the Notice to allow for vetting and selection decisions on a rolling basis beginning September 1, 2011, until the maximum of 20 participants is selected. Although applications will be accepted through October 17th (and after that date if space remains and scheduling constraints permit), interested U.S. renewable energy firms and trade organizations which have not already submitted an application are encouraged to do so as soon as possible.

Amendments

1. For the reasons stated above, the Timeframe for Recruitment and Applications section of the Notice of the Renewable Energy and Energy Efficiency Executive Business Development Mission, 76 FR, No. 140, July 21, 2011, is amended to read as follows:

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for this mission will conclude no later than October 17, 2011. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning August 31, 2011. We will inform all applicants of selection decisions on a rolling basis. Applications received after the October 17 deadline will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT: Michael Lally, Commercial Officer.

Phone: 415–705–1765; Fax: 415–705–2299. *E-mail: Michael.lally@trade.gov.*

Elnora Moye,

Commercial Service Trade Mission Program, U.S. Department of Commerce

[FR Doc. 2011–23893 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XL85

Notice of Availability of a Draft Supplemental Environmental Impact Statement for Replacement of NOAA Southwest Fisheries Science Center in La Jolla, CA

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of the Draft Supplemental Environmental Impact Statement (SEIS); Request for comments.

SUMMARY: NOAA announces the public release of the Draft SEIS in accordance with the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations, and NOAA Administrative Order 216–6 *Environmental Review Procedures for Implementing the National Environmental Policy Act.* Since completion of the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in April of 2009, substantial changes to the proposed action are being considered by NOAA within portions of the project area containing the 2.5-acre property currently occupied by Southwest Fisheries Science Center (SWFSC) and managed by NOAA under long-term lease from the University of California Office of the President (UCOP). These newly proposed actions were not previously analyzed in the Final EIS/EIR and involve additional demolition activities, substantial excavation and grading, installation of a geohazard soil stabilization system, structural upgrade to remaining structures, and other site alterations. These proposed actions were deemed necessary by NOAA based on additional geotechnical information and design recommendations received since approval of the Final EIS/EIR. The SEIS evaluates each environmental topic addressed in the Final EIS/EIR, and focuses on the newly proposed action and its potential effects to the human environment. The No-Action Alternative was analyzed and assumes the newly proposed actions would not be implemented.

DATES: Written comments and input will be accepted on or before October 31, 2011.

ADDRESSES: Written comments should be sent to Robb Gries, Project Engineer, NOAA, Project Planning & Management—Western Region, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115; e-mail *robb.gries@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Mr. Robb Gries, NOAA Project Engineer, at the address provided above. A copy of the Draft SEIS can be viewed or downloaded at *http://www.seco.noaa.gov/HTML_Blue/OCAO_NEPA.html.*

SUPPLEMENTARY INFORMATION: The proposed action evaluated in the April 2009 Final EIS/EIR consisted of the demolition of Buildings B and C and the construction of a new SWFSC building on a property across La Jolla Shores Drive from the existing NOAA facilities. Currently, construction of the SWFSC building at the preferred site is underway. Demolition of Buildings B and C at the existing NOAA property would not occur until construction of the new SWFSC building has been completed.

A Notice of Intent to prepare SEIS was published in the **Federal Register** on June 30, 2011. Consistent with 40 CFR 1502.9(c)(1)(i), this SEIS focuses on the environmental effects of the proposed changes and feasible alternatives including the no-action alternative, and analyzes the potential effects to affected resources such as: geological conditions, hydraulic processes, construction noise, traffic/pedestrian circulation, air emissions, and protected wildlife. Separately, the University of California—San Diego (UCSD) and UCOP intend to determine what additional CEQA documentation is necessary, such as an Addendum to the Final EIS/EIR, based on the findings of the SEIS and other factors.

NOAA has submitted the Draft SEIS to the U.S. Environmental Protection Agency for review and comment, in conformance with NEPA implementing regulations. Copies of this document have been made available to persons who participated in the Final EIS/EIR scoping process, to other individuals expressing interest, and to local libraries in order to be accessible to the general public. NOAA is accepting comments on the Draft SEIS during a 45-day official comment period beginning September 19, 2011, and ending on October 31, 2011.

Dated: August 26, 2011.

William F. Broglie,

Chief Administrative Officer, National Oceanic and Atmospheric Administration.

[FR Doc. 2011–23987 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–BB44

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 11 to the Fishery Management Plan for Spiny Lobster Resources of the Gulf of Mexico and South Atlantic; Intent To Prepare a Supplemental Environmental Impact Statement (SEIS); Request for Comments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent (NOI).

SUMMARY: NMFS, Southeast Region, in collaboration with the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) intends to prepare a SEIS to describe and analyze a range of alternatives for management actions to be included in Amendment 11 to the Fishery Management Plan for the Spiny Lobster Resources of the Gulf of Mexico and South Atlantic (FMP). These actions will consider closed areas for lobster fishing to protect *Acropora* corals and lobster trap line-marking requirements. The purpose of this NOI is to solicit public comments on the scope of issues to be addressed in the SEIS.

DATES: Written comments on the scope of issues to be addressed in the SEIS must be received by NMFS by October 19, 2011.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2011–0223, by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not

submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-rulemaking portal: *http://www.regulations.gov,* click on ''submit a comment,'' then enter ''NOAA–NMFS–2011–0223'' in the keyword search and click on ''search.'' To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0223'' in the keyword search and click on ''search.'' NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305 or e-mail: *Susan.Gerhart@noaa.gov.*

SUPPLEMENTARY INFORMATION: On August 27, 2009, an Endangered Species Act (ESA) biological opinion was completed that evaluated the impacts of the continued authorization of the trap component of the spiny lobster commercial sector on ESA-listed species. The opinion prescribed non-discretionary reasonable and prudent measures (RPMs) to help minimize the impacts of takes to ESA-listed species by the trap component of the spiny lobster commercial sector. Specific terms and conditions required to implement the prescribed RPMs included creating new or expanding existing closed areas to protect coral and implementing lobster trap line-marking requirements. A September 2, 2011, memo revised the 5-year phase-in period for the line-marking requirement to 5 years from implementation of the planned final rule or no later than August 6, 2017. The Councils are considering alternatives to meet these requirements.

Actions and alternatives to address these measures were included in Amendment 10 to the Spiny Lobster FMP. However, the Councils felt more time was needed to work with stakeholders in developing management measures. NMFS, in collaboration with the Councils, will develop a SEIS for Amendment 11 to describe and analyze alternatives to address the management needs described above. The alternatives will include a ''no action'' alternative regarding each action.

In accordance with NOAA's Administrative Order 216–6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Councils, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the SEIS.

Copies of an information packet will be available from NMFS (see **ADDRESSES**).

After the draft SEIS associated with Amendment 11 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability of the draft SEIS for public comment in the **Federal Register**. The draft SEIS will have a 45-day public comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations.

NMFS will consider public comments received on the draft SEIS in developing the final SEIS and before adopting final management measures for the amendment. NMFS will submit both the final amendment and the supporting SEIS to the Secretary of Commerce (Secretary) for review as required by the Magnuson-Stevens Fishery Conservation and Management Act.

NMFS will announce, through a notification in the **Federal Register**, the availability of the final amendment for public review during the Department of Commerce Secretarial review period. During Secretarial review, NMFS will also file the final SEIS with the EPA and the EPA will publish a notice of availability for the final SEIS in the **Federal Register**. This public comment period is expected to be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve the amendment.

NMFS will announce, through a document published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated final SEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the final SEIS, prior to final agency action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 13, 2011.

Steven Thur,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–24035 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XA708

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold meetings of its Scientific and Statistical Committee (SSC) and Socio-Economic Sub-Panel (SEP) to review fishery management plan (FMP) amendments under development, ABC control rule approaches, stock assessments of black sea bass and golden tilefish, planning for future assessments of Spanish mackerel and cobia, and the National SSC workshop. The meetings will be held in Charleston, SC. See **SUPPLEMENTARY INFORMATION**.

DATES: The meetings will be held November 7–10, 2011. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Hampton Inn, 678 Citadel Haven Drive, Charleston, SC 29414; telephone: (843) 573–1200.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; (843) 571–4366; e-mail: *Kim.Iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Reauthorized Act, the SSC is the body responsible for reviewing the Council's scientific materials. The SEP sub-pane reviews social and economic information and reports its findings to the SSC. The SEP will discuss FMP amendments that are under development and the role of social and economic sciences in the Council process. The SSC will discuss FMP amendments under development, assessments of black sea bass and tilefish, review advancements in ABC control rule development, review planning information for assessments of Spanish mackerel and cobia to be developed in 2013, and discuss the findings of the National SSC workshop.

SEP Meeting Schedule

November 7, 2011, 1 p.m.–5 p.m.

SSC Meeting Schedule

November 8, 2011, 9 a.m.–6 p.m.

November 9, 2011, 9 a.m.–6 p.m.
November 10, 2011, 9 a.m.–3 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Dated: September 14, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–23928 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA584

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey in the Central Pacific Ocean, November, 2011 Through January, 2012

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 Lamont-Doherty Earth Observatory (L–DEO), a part of Columbia University, for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a marine geophysical survey in the central Pacific Ocean, November through December, 2011. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to L–DEO to incidentally harass, by Level B harassment only, 20 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than October 19, 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 20910–3225. The mailbox address for providing e-mail comments is *ITP.Cody@noaa.gov.* NMFS is not responsible for e-mail comments send 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.

An electronic 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 following associated documents are also available at the same Internet address: The National Science Foundation's (NSF) draft Environmental Analysis (Analysis) Pursuant to Executive Order 12114. The Analysis incorporates an ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Central Pacific Ocean, November–December 2011,'' prepared by LGL Limited, on behalf of NSF. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protect Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce 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. NMFS must publish a notice in the **Federal Register** within 30 days of its determination to 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 17, 2011, from L–DEO for the taking by harassment, of marine mammals, incidental to conducting a marine geophysical survey in the central tropical Pacific Ocean in international waters. L–DEO, with research funding from the U.S. National Science Foundation (NSF), plans to conduct the proposed survey from November 26, 2011, through December 29, 2011. Upon receipt of additional information, NMFS determined the application complete and adequate on August 26, 2011.

L–DEO plans to use one source vessel, the R/V *Marcus G. Langseth* (*Langseth*) and a seismic airgun array to image the structure of the oceanic lithosphere (*i.e.,*

the Earth's crust and the uppermost mantle) in the Central Pacific using three-dimensional (3-D) seismic reflection techniques. The *Langseth* will deploy a single hydrophone streamer and approximately 34 short-period Ocean Bottom Seismometers (OBS) to collect geophysical data. After completion of the seismic survey, the *Langseth* will recover the 34 seismometers and deploy 27 broad-band OBSs and five magneto-telluric instruments on the seafloor. These instruments will remain on the seafloor for 12 months and the scientists will recover these instruments on a subsequent cruise in 2012.

In addition to the proposed operations of the seismic airgun array, L–DEO 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 L–DEO has requested an authorization to take 20 species of marine mammals by Level B harassment. Take is not expected to result from the use of the MBES, the SBP, the OBSs, or the magneto-telluric instruments for reasons discussed in this notice. Also, NMFS does not expect take to result from collision with the *Langseth* because it is a single vessel moving at a relatively slow speeds during seismic acquisition within the survey, for a relatively short period of time. It is likely that any marine mammal would be able to avoid the vessel.

Description of the Specified Activity

L–DEO's proposed seismic survey is scheduled to commence on November 26, 2011, and continue for approximately 35 days ending on December 29, 2011. Some minor deviation from these dates is possible, depending on logistics, weather conditions, and the need to repeat some lines if data quality is substandard. Therefore, NMFS proposes to issue an authorization that extends to January 19, 2012.

Within this time period, the *Langseth* will conduct seismic operations deploying a 36-airgun array, a 6-kilometer (km) hydrophone streamer, and 34 OBSs. The *Langseth* will depart from Honolulu, Hawai'i on November 26, 2011 and transit to the survey area in the central Pacific Ocean, approximately 1,300 kilometers (km) south of Hawai'i.

Geophysical survey activities will involve 3-D seismic methodologies to define the detailed structure of the oceanic lithosphere and to develop a comprehensive theory on its formation and evolution. To obtain 3-D images of the lithosphere in the survey area, the *Langseth* will deploy a 36-airgun array as an energy source. The receiving system consists of one 6-km-long hydrophone streamer and approximately 34 OBSs. As the airgun array is towed along the survey lines, the hydrophone streamers will receive the returning acoustic signals and transfer the data to the on-board processing system. The OBSs will receive the returning acoustic signals and record them for internally for later analysis after retrieval from the seafloor.

The proposed study (*e.g.,* equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) will take place in water depths of approximately 5,000 meters (m) (3.1 miles (mi)). The survey will require approximately 11 days (d) to complete approximately 2,120 km (1,317.3 mi) of transect lines. The *Langseth* will shoot a 600-km long transect line twice; once using the hydrophone streamer as the receiver and once again using the OBSs. Subsequent seismic operations will occur along two semi-circular arcs (180 degrees) centered at the mid-point of the 600-km long transect line with radii of 50 and 150 km, respectively. The *Langseth* will conduct additional seismic operations in the survey area associated with turns, airgun testing, and repeat coverage of any areas where the initial data quality is sub-standard. Data acquisition will include approximately 264 hours (hr) of airgun operation (11d × 24 hr).

The scientific team for this survey consists of Drs. J.B. Gaherty (L–DEO); D. Lizarralde, J.A. Collins, and R. Evans (Woods Hole Oceanographic Institution); and G. Hirth (Brown University).

Vessel Specifications

The *Langseth,* owned by NSF, is a seismic research vessel with a propulsion system designed to be as quiet as possible to avoid interference with the seismic signals emanating from the airgun array. The vessel, which has a length of 71.5 m (235 feet (ft)); a beam of 17.0 m (56 ft); a maximum draft of 5.9 m (19 ft); and a gross tonnage of 3,834 pounds, is powered by two 3,550 horsepower (hp) Bergen BRG–6 diesel engines which drive two propellers. Each propeller has four blades and the shaft typically rotates at 750 revolutions per minute. The vessel also has an 800-hp bowthruster, which is not used during seismic acquisition. The *Langseth's* operation speed during seismic acquisition will be approximately 8.5 km per hr (km/h) (5.3 miles (mi) per hr (mph) or 4.6 knots (kts)) and the cruising speed of the vessel outside of seismic operations is 18.5 km/h (11.5 mph or 10 kts).

When the *Langseth* is towing the airgun array and the hydrophone streamer, the turning rate of the vessel is limited to five degrees per minute. Thus, the maneuverability of the vessel is limited during operations with the streamer.

The vessel also has an observation tower from which protected species visual observers (PSVO) will watch for marine mammals before and during the proposed airgun operations. When stationed on the observation platform, the PSVO's eye level will be approximately 21.5 m (71 ft) above sea level providing the PSVO an unobstructed view around the entire vessel.

Acoustic Source Specifications

Seismic Airguns

The *Langseth* will deploy a 36-airgun array, with a total volume of approximately 6,600 cubic inches (in^3) at a tow depth of 9 m (29.5 ft). The airguns are a mixture of Bolt 1500LL and Bolt 1900LLX airguns ranging in size from 40 to 360 in^3, with a firing pressure of 1,900 pounds per square inch. The dominant frequency components range from zero to 188 Hertz (Hz). The array configuration consists of four identical linear or strings, with 10 airguns on each string; the first and last airguns will be spaced 16 m (52 ft) apart. Of the 10 airguns, nine will fire simultaneously while the tenth airgun will serve as a spare and will be turned on in case of failure of one of the other airguns. During the multichannel seismic (MCS) survey, each airgun array will emit a pulse at approximately 22-second (s) intervals which corresponds to a shot interval of approximately 50 m (164 ft). During OBS data acquisition, each airgun array will emit a longer pulse at approximately 300-s intervals which corresponds to a shot interval of approximately 650 m (2,132.5 ft). During firing, the airguns will emit a brief (approximately 0.1 s) pulse of sound; during the intervening periods of operations, the airguns will be silent.

L–DEO will tow each array approximately 100 m (328 ft) behind the vessel and will distribute the array

across an area of approximately 24 by 16 m (78.7 by 52.5 ft) behind the *Langseth.*

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 source levels of the airgun array used by L–DEO on the *Langseth* is 236 to 265 dB re: 1 $\mu Pa_{(p\text{-}p)}$ and the rms value for a given airgun pulse is typically 16 dB re: 1 μPa lower than the peak-to-peak value. 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, L–DEO has predicted the received sound levels in relation to distance and direction from the 36-airgun array and the single Bolt 1900LL 40-in^3 airgun, which will be used during power downs. A detailed description of L–DEO's modeling for marine seismic source arrays for species mitigation is provided in Appendix A of L–DEO's application. These are the nominal source levels applicable to downward propagation. The effective source levels for horizontal propagation are lower than those for downward propagation because of the directional nature of the sound from the airgun array.

Appendix B of L–DEO's environmental analysis discusses the characteristics of the airgun pulses. NMFS refers the reviewers to the application and environmental analysis documents for additional information.

Predicted Sound Levels for the Airguns

Tolstoy *et al.,* (2009) reported results for propagation measurements of pulses from the *Langseth's* 36-airgun, 6,600 in^3 array in shallow-water (approximately 50 m (164 ft)) and deep-water depths (approximately 1,600 m (5,249 ft)) in the Gulf of Mexico in 2007 and 2008. Results of the Gulf of Mexico calibration study (Tolstoy *et al.,* 2009) showed that radii around the airguns for various received levels varied with water depth and with array tow depth.

L–DEO used the results from the Gulf of Mexico study to determine the algorithm for its model that calculates the exclusion zones (EZ) for the 36-airgun array and the single airgun. L–DEO uses these values to designate mitigation zones and to estimate take (described in greater detail in Section VII of L–DEO's application and Section IV of the environmental analysis) for marine mammals.

Comparison of the Tolstoy *et al.* calibration study with L–DEO's model for the *Langseth's* 36-airgun array indicated that the model represents the actual received levels, within the first few kilometers, where the predicted exclusions zones are located. However, the model for deep water (greater than 1,000 m; 3,280 ft) overestimated the received sound levels at a given distance but is still valid for defining exclusion zones at various tow depths. Because the tow depth of the array in the calibration study is less shallow (3 m; 9.8 ft) than the tow depth array in the proposed survey (9 m; 29.5 ft), L–DEO used correction factors for estimating the received levels in deep water during the proposed survey. The correction factors used were the ratios of the 160- and 180-dB distances from the modeled results for the 6,600 in^3 airgun array towed at 6 m (19.7 ft) versus 9 m (29.5 ft) from LGL (2008); 1.285 and 1.3381 respectively.

Table 1 summarizes the predicted distances at which sound levels (160- and 180-dB) are expected to be received from the 36-airgun array and a single airgun operating in deep water.

TABLE 1—MEASURED (ARRAY) OR PREDICTED (SINGLE AIRGUN) DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160 AND 180 dB RE: 1 μPa_{rms} THAT COULD BE RECEIVED IN DEEP WATER USING A 36-AIRGUN ARRAY, AS WELL AS A SINGLE AIRGUN TOWED AT A DEPTH OF 9 M (29.5 FT) DURING THE PROPOSED SURVEY IN THE CENTRAL PACIFIC OCEAN, DURING NOVEMBER, 2011–JANUARY, 2012

[Distances are based on model results provided by L–DEO.]

Source and volume	Water depth	Predicted RMS distances (m)	
		160 dB	180 dB
Single Bolt airgun (40 in^3)	Deep	385	40
36-Airgun Array	(> 1,000 m)	3,850	940

Appendix A of the environmental analysis discusses L–DEO's calculations for the model. NMFS refers the reviewers to the application and environmental analysis documents for additional information.

Ocean Bottom Seismometer

L–DEO proposes to use the Woods Hole Oceanographic Institution (WHOI)

''D2'' OBS during the cruise. This type of OBS is approximately one meter in height and has a maximum diameter of 50 centimeters (cm). The anchor (2.5 × 30.5 × 38.1 cm) is made of hot-rolled steel and weighs 23 kilograms (kg). The acoustic release transponder used to communicate with the OBS uses frequencies of 9 to 13 kHz. The source level of the release signal is 190 dB re: 1 μPa.

Multibeam Echosounder

The *Langseth* will operate a Kongsberg EM 122 MBES concurrently during airgun operations to map characteristics of the ocean floor. The hull-mounted MBES emits brief pulses of sound (also called a ping) (10.5 to 13 kilohertz (kHz)) in a fan-shaped beam that extends downward and to the sides of the ship. The transmitting beamwidth is one or two degrees (°) fore-aft and 150° athwartship and the maximum source level is 242 dB re: 1 μPa.

For deep-water operations, each ping consists of eight (in water greater than 1,000 m; 3,280 ft) or four (less than 1,000 m; 3,280 ft) successive, fan-shaped transmissions, from two to 15 milliseconds (ms) in duration and each ensonifying a sector that extends 1° fore-aft. Continuous wave pulses increase from two to 15 milliseconds (ms) long in water depths up to 2,600 m (8,530 ft). The MBES uses frequency-modulated chirp pulses up to 100-ms long in water greater than 2,600 m (8,530 ft). The eight successive transmissions span an overall cross-track angular extent of about 150°, with 2-ms gaps between the pulses for successive sectors.

Sub-Bottom Profiler

The *Langseth* will also operate a Knudsen Chirp 3260 SBP concurrently during airgun and MBES operations to provide information about the sedimentary features and bottom topography. The SBP is capable of reaching depths of 10,000 m (6.2 mi). The dominant frequency component of the SBP is 3.5 kHz which is directed downward in a 27° cone by a hull-mounted transducer on the vessel. The nominal power output is 10 kilowatts (kW), but the actual maximum radiated power is three kW or 222 dB re: 1 μPa. The ping duration is up to 64 ms with a pulse interval of one second, but a common mode of operation is to broadcast five pulses at 1-s intervals followed by a 5-s pause.

NMFS expects that acoustic stimuli resulting from the proposed operation of the single airgun or the 36-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 in a temporary modification in behavior and/or low-level physiological effects (Level B harassment only) of small numbers of certain species of marine mammals. NMFS does not expect that the movement of the *Langseth,* during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (4.6 kts; 8.5 km/hr; 5.3 mph) during seismic acquisition.

Description of the Specified Geographic Region

The survey will encompass the area bounded by 5–10° N, 150–156° W in international waters in the central Pacific Ocean (see Figure 1 in L–DEO's application). Water depth in the survey area is approximately 5,000 m (3.1 mi).

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Twenty-six marine mammal species may occur in the proposed survey area, including 19 odontocetes (toothed cetaceans), 6 mysticetes (baleen whales) and one species of pinniped during November through December. Six 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*) whale and the Hawaiian monk seal (*Monachus schauinslandi*).

Hawaiian monk seals have the potential to transit in the vicinity of the proposed seismic survey, although any occurrence would be rare as they are vagrants to the area. Based on available data, L–DEO does not expect to encounter Hawaiian monk seals within the proposed survey area and does not present analysis for these species. Accordingly, NMFS will not consider this pinniped species in greater detail and the proposed IHA will only address requested take authorizations for mysticetes and odontocetes.

The species of marine mammals expected to be most common in the survey area (all delphinids) include the pantropical spotted dolphin (*Stenella attenuata*) and spinner dolphin (*Stenella longirostris*).

Table 2 presents information on the abundance, distribution, and conservation status of the marine mammals that may occur in the proposed survey area November, 2011 through January, 2012.

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Table 2. Habitat, abundance, and conservation status of marine mammals that may occur in or near the proposed seismic survey area in the central Pacific Ocean.
[See text and Tables 2 and 3 in L-DEO's application and environmental analysis for further details.]

Species	Occurrence in Survey Area during Nov – Jan	Habitat	Abundance in Hawaii [1]	Abundance in the N. Pacific or ETP	ESA [2]	Density[3]
Mysticetes Humpback whale	Rare	Mainly nearshore waters and banks	7,120 – 10,425[4]	20,800[5]	EN	0
Bryde's whale	Common	Pelagic, coastal	469	13,000[6]	NL	0.58
Sei whale	Rare	Mostly pelagic	N.A.	7,260 – 12,620[7]	EN	0
Fin whale	Rare	Slope, pelagic	N.A.	13,260 – 18,680[8]	EN	0
Blue whale	Rare	Pelagic, coastal	N.A.	1,400[9] – 2,842[10]	EN	0.01
Minke whale	Rare	Coastal	N.A.	9,000[11]	NL	0
Odontocetes Sperm whale	Common	Pelagic, steep topography	6,919	26,053[12] – 24,000[13]	EN	2.97
Pygmy sperm whale	Uncommon	Deep waters off shelf	7,138	N.A.	NL	0.03
Dwarf sperm whale	Common	Deep, shelf, slope	17,519	11,200[14]	NL	7.65
Blainville's beaked whale	Uncommon	Pelagic	2,872	25,300[15]	NL	0.35
Cuvier's beaked whale	Common	Slope, pelagic	15,242	20,000[9]	NL	6.66
Ginkgo-toothed beaked whale	Rare	Pelagic	N.A.	25,300[15]	NL	0.35
Longman's beaked whale	Uncommon	Pelagic	1,007	294[16]	NL	0.44
Rough-toothed dolphin	Common	Mainly pelagic	8,709	107,633[17]	NL	1.24
Bottlenose dolphin	Common	Coastal, shelf, deep	3,215	335,834[17]	NL	4.94
Pantropical spotted dolphin	Common	Coastal and pelagic	8,978	1,297,092[18]	NL	120.4
Spinner dolphin	Common	Coastal and pelagic	3,351	1,797,716[18]	NL	183.5
Striped dolphin	Common	Off continental shelf	13,143	964,362[17]	NL	16.45
Fraser's dolphin	Common	Pelagic	10,226	289,300[9]	NL	4.47
Risso's dolphin	Common	Shelf, slope, seamounts	2,372	110,457[17]	NL	0.81
Melon-headed whale	Common	Pelagic	2,950	45,400[9]	NL	1.29
Pygmy killer whale	Uncommon	Pelagic, coastal	956	38,900[9]	NL	0
False killer whale	Common	Pelagic	484[19]	39,800[9]	NL	0.10
Killer whale	Rare	Widely distributed	349	8,500[20]	NL	0.15
Short-finned pilot whale	Common	Pelagic, high-relief	8,870	589,315[21]	NL	5.07

N.A. Not available or not assessed.
[1] Abundance from Barlow (2006) unless otherwise stated.
[2] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.

[3] Density (#/1000 km^2) estimates as listed in Table 3 of the application. Cetacean densities are based on NMFS SWFSC ETP ship transect surveys conducted in 1986–2006 from predictive modeling (Barlow et al., 2009; Read et al., 2009) or in 2002 from Barlow (2006). Densities are corrected for f(0) and g(0). Where no source is given, the species was not included in Read et al. (2009) or Barlow (2006).
[4] Calambokidis et al. (2008)
[5] North Pacific (Barlow et al., 2009a)
[6] Wade and Gerrodette (1993); estimate is for Balaenoptera edeni but may include some B. borealis.
[7] Tillman (1977)
[8] Ohsumi and Wada (1974)
[9] ETP (Wade and Gerrodette, 1993)
[10] U.S. west coast (Carretta et al., 2010)
[11] Wada (1976)
[12] ETP (Whitehead, 2002a)
[13] Eastern Temperate North Pacific (Whitehead, 2002a)
[14] Wade and Gerrodette (1993); estimate for ETP mostly for K. sima but may also include K. breviceps
[15] This estimate includes all species of the genus Mesoplodon in the ETP (Wade and Gerrodette, 1993)
[16] ETP (Ferguson and Barlow, 2003)
[17] ETP for 2006 (Gerrodette et al., 2008)
[18] ETP for 2006 for the two offshore spotted dolphin, and the eastern and whitebelly spinner dolphin, stocks (Gerrodette et al., 2008)
[19] Hawaii pelagic stock (Barlow and Rankin, 2007)
[20] ETP (Ford 2002)
[21] This estimate is for G. macrorhynchus and G. melas in the ETP (Gerrodette and Forcada, 2002)

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Refer to Sections III and IV of L–DEO'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 L–DEO 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 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 an 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 B (4) of L–DEO's environmental analysis 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. Less detailed data are available for some other species of baleen whales, small toothed whales, and sea otters (*Enhydra lutris*), 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 kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, as reviewed in Appendix B (5.1) of L–DEO's environmental analysis, 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 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 four to 15 km 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 B (5.1) of L–DEO's environmental analysis have shown that some species of baleen whales, notably bowhead and humpback whales, at times, show strong avoidance at received levels lower than 160–170 dB re: 1 μPa.

McCauley *et al.* (1998, 2000) 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 $\mu Pa_{(p\text{-}p)}$. In the 1998 study, they documented that avoidance reactions began at five to eight km 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 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 for humpback pods containing females, and at the mean closest point of approach distance the received level was 143 dB re: 1 μPa. 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.

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.

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 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 B (5) of L–DEO's environmental analysis). 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. 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). 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). In a study off of Nova Scotia, Moulton and Miller (2005) found little difference in sighting rates (after accounting for water depth) and initial sighting distances of balaenopterid whales when airguns were operating vs. silent. However, there were indications that these whales were more likely to be moving away when seen during airgun operations. Similarly, ship-based monitoring studies of blue, fin, sei and minke whales offshore of Newfoundland (Orphan Basin and Laurentian Sub-basin) found no more than small differences in sighting rates and swim directions during seismic versus non-seismic periods (Moulton *et al.,* 2005, 2006a,b). 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; Angliss and Allen, 2009).

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 B of L–DEO's environmental analysis 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).

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; see also Barkaszi *et al.,* 2009). 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). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km 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 (*Phocoena phocoena*) show stronger avoidance of seismic operations than do Dall's porpoises (*Phocoenoides dalli*) (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 B of L–DEO's environmental analysis for review). However, controlled exposure experiments in the Gulf of Mexico 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 (*Ziphius cavirostris*) 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.

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 (See Appendix B of L–DEO's environmental analysis).

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 presents the distances from the *Langseth's* airguns at which the received energy level (per pulse, flat-weighted) that would be expected to be greater than or equal to 180 dB re: 1 μPa.

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. 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. The 180-dB level is a shutdown criterion applicable to cetaceans, as specified by NMFS (2000); these levels were used to establish the EZs. NMFS also assumes that cetaceans exposed to levels exceeding 160 dB re: 1 μPa (rms) may experience Level B harassment.

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, L–DEO expects no cases of TTS given: (1) The low abundance of baleen whales in the planned study area at the time of the survey; and (2) the strong likelihood that baleen whales would avoid the approaching airguns (or vessel) before

being exposed to levels high enough for TTS to occur.

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 decibels above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise time–see Appendix B (6) of L–DEO's environmental analysis. 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 B (6) of L–DEO's environmental analysis 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 increasing 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 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,

(2) Differences between the sound sources operated by L–DEO 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

L–DEO will operate the Kongsberg EM 122 MBES from the source vessel during the planned study. Sounds from the MBES are very short pulses, occurring for two to 15 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 12 kHz, and the maximum source level is 242 dB re: 1 μPa. The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (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 segments. Also, marine mammals that encounter the Kongsberg EM 122 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 vessel (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2- to 15-ms pulse (or two pulses 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 122; 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 L–DEO'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 LDEO, 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.

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 L–DEO 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.

Based upon the best available science, 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

L–DEO will also operate an SBP from the source vessel during the proposed survey. Sounds from the SBP are very short pulses, occurring for one to four ms once every second. Most of the energy in the sound pulses emitted by the SBP is at 3.5 kHz, and the beam is directed downward. The sub-bottom profiler on the Langseth has a maximum source level of 222 dB re: 1 μPa.

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 *Langseth*—if the animal was in the area, it would have to pass the transducer at close range and 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. 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. Based upon the best available science, NMFS believes that the brief exposure of marine mammals to signals from the SBP is not likely to result in the harassment of marine mammals.

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 is not anticipated to have 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). Additionally, no physical damage to any habitat is anticipated as a result of conducting the proposed seismic survey. 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. The next section discusses the potential impacts of anthropogenic sound sources on common marine mammal prey in the proposed survey area (*i.e.,* fish and invertebrates).

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 D of L–DEO's environmental analysis). 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.

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 then 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 D L–DEO's environmental analysis). 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 we 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 9 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 D of L–DEO's environmental analysis).

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 been observed in some marine fisheries during seismic testing, in a number of cases the findings are confounded 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 (CPUE) 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 E of L–DEO's environmental analysis).

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 E of L–DEO's environmental analysis.

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.

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.

L–DEO has based the mitigation measures described herein, to be implemented for the proposed seismic survey, on the following:

(1) Protocols used during previous L–DEO 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, L–DEO and/or its designees has proposed to implement the following mitigation measures for marine mammals:

(1) Proposed exclusion zones (EZ);

(2) Power-down procedures;

(3) Shutdown procedures; and

(4) Ramp-up procedures.

Proposed Exclusion Zones—L–DEO uses safety radii to designate exclusion zones and to estimate take (described in greater detail in Section IV and Appendix A of L–DEO's environmental analysis) for marine mammals. Table 1 shows the distances at which two sound levels (160- and 180-dB) are expected to be received from the 36-airgun array and a single airgun. The 180-dB level shut-down criterion is applicable to cetaceans, as specified by NMFS (2000); and L–DEO used these levels to establish the EZs. If the protected species visual observer (PSVO) detects marine mammal(s) within or about to enter the appropriate EZ, the *Langseth* crew will immediately power down the airgun array, or perform a shut down if necessary (see Shut-down Procedures).

Power-down Procedures—A power-down involves decreasing the number of airguns in use such that the radius of the 180-dB zone is decreased to the extent that marine mammals are no longer in or about to enter the EZ. A power down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power-down for mitigation, L–DEO will operate one airgun. The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. In contrast, a shut down occurs when the *Langseth* suspends all airgun activity.

If the PSVO detects a marine mammal outside the EZ, which is likely to enter the EZ, L–DEO will power down the airguns before the animal enters the EZ. Likewise, if a mammal is already within the EZ, when first detected L–DEO will power down the airguns immediately. During a power down of the airgun array, L–DEO will operate the 40-in^3 airgun. If a marine mammal is detected within or near the smaller EZ around that single airgun (Table 1), L–DEO will shut down the airgun (see next section).

Following a power-down, L–DEO will not resume airgun activity until the marine mammal has cleared the safety zone. L–DEO will consider the animal to have cleared the EZ if

- A PSVO has visually observed the animal leave the EZ; or
- A PSVO has not sighted the animal within the EZ for 15 min for small odontocetes, or 30 min for mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales; or
- The vessel has moved outside the EZ (*e.g.,* if a marine mammal is sighted close to the vessel and the ship speed is 8.5 km km/h (5.3 mph), it would take the vessel approximately eight minutes to leave the vicinity of the marine mammal.

During airgun operations following a power-down (or shut-down) whose duration has exceeded the time limits specified previously, L–DEO will ramp-up the airgun array gradually (see Shut-down Procedures).

Shut-down Procedures—L–DEO will shut down the operating airgun(s) if a marine mammal is seen within or approaching the EZ for the single airgun. L–DEO will implement a shut-down:

(1) If an animal enters the EZ of the single airgun after L–DEO has initiated a power down, or (2) If an animal is initially seen within the EZ of the single airgun when more than one airgun (typically the full airgun array) is operating.

L–DEO will not resume airgun activity until the marine mammal has cleared the EZ, or until the PSVO is confident that the animal has left the vicinity of the vessel. Criteria for judging that the animal has cleared the EZ will be as described in the preceding section.

Ramp-up Procedures—L–DEO will follow a ramp-up procedure when the airgun subarrays begin operating after a specified period without airgun

operations or when a power down has exceeded that period. L–DEO proposes that, for the present cruise, this period would be approximately eight minutes. This period is based on the 180-dB radius for the 36-airgun array towed at a depth of nine m (29.5 ft) in relation to the minimum planned speed of the Langseth while shooting (8.5 km/h; 5.3 mph; 4.6 kts). L–DEO has used similar periods (8–10 min) during previous L–DEO surveys. L–DEO will not resume operations if a marine mammal has not cleared the EZ as described earlier.

Ramp-up will begin with the smallest airgun in the array (40-in^3). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding six dB per five-minute period over a total duration of approximately 30 min. During ramp-up, the PSVOs will monitor the EZ, and if he/she sights a marine mammal, L–DEO will implement a power down or shut down as though the full airgun array were operational.

If the complete EZ is not visible to the PSVO for at least 30 min prior to the start of operations in either daylight or nighttime, L–DEO will not commence the ramp-up unless at least one airgun (40-in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that L–DEO will not ramp up the airgun array from a complete shut-down at night or in thick fog, because the outer part of the EZ for that array will not be visible during those conditions. If one airgun has operated during a power-down period, 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. L–DEO 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. Our 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 our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals 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

L–DEO proposes to sponsor marine mammal monitoring during the present project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. L–DEO's proposed Monitoring Plan is described below this section. L–DEO 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. L–DEO 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

L–DEO will position PSVOs aboard the seismic source vessel to watch for marine mammals near the vessel during daytime airgun operations and during any start-ups at night. PSVOs will also watch for marine mammals near the seismic vessel for at least 30 min prior to the start of airgun operations after an extended shut down. PSVOs 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 PSVO observations, the *Langseth* will power down or shut down the airguns 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, at least four PSVOs will be based aboard the *Langseth.* L–DEO will appoint the PSVOs with NMFS' concurrence. During all daytime periods, two PSVOs will be on duty from the observation tower to monitor and PSVOs will be on duty in shifts of duration no longer than four hours. During mealtimes it is sometimes difficult to have two PSVOs on effort, but at least one PSVO will be on watch during bathroom breaks and mealtimes. Use of two simultaneous observers increases the effectiveness of detecting animals near the source vessel.

L–DEO will also instruct other crew to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the seismic survey, L–DEO will give the crew additional instruction regarding how to accomplish this task.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 21.5 m (70.5 ft) above sea level, and the observer will have a good view around the entire vessel. During daytime, the PSVOs will scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices (NVDs) will be available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly; that is done primarily with the reticles in the binoculars.

Passive Acoustic Monitoring

Passive Acoustic Monitoring (PAM) will complement the visual monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when

they are below the surface or beyond visual range.

Besides the four PSVOs, an additional Protected Species Acoustic Observer (PSAO) with primary responsibility for PAM will also be aboard the vessel. L–DEO can use acoustical monitoring in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring will serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. It will be monitored in real time so that the visual observers can be advised when cetaceans are detected. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings will be relayed to the visual observer to help him/her sight the calling animal(s).

The PAM system consists of hardware (*i.e.,* hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array that is connected to the vessel by a cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths less than 20 m (65.6 ft). The array will be deployed from a winch located on the back deck. A deck cable will connect the tow cable to the electronics unit in the main computer lab where the acoustic station, signal conditioning, and processing system will be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

The PSAO will monitor the towed hydrophones 24 h per day during airgun operations and during most periods when the *Langseth* is underway while the airguns are not operating. However, PAM may not be possible if damage occurs to both the primary and back-up hydrophone arrays during operations. The primary PAM streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone. Every effort would be made to have a working PAM system during the cruise. In the unlikely event that all three of these systems were to fail, L–DEO would continue science acquisition with the visual-based observer program. The PAM system is a supplementary enhancement to the visual monitoring program. If weather conditions were to prevent the use of PAM, then conditions would also likely prevent the use of the airgun array.

The PSAO will monitor the acoustic detection system at any one time, by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. PSAOs monitoring the acoustical data will be on shift for one to six hours at a time. Besides the PSAO, all PSVOs are expected to rotate through the PAM position, although the most experienced with acoustics will be on PAM duty more frequently.

When a vocalization is detected while visual observations are in progress, the PSAO on duty will contact the visual PSVO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), and to allow a power down or shut down to be initiated, if required. The information regarding the call will be entered into a database. Data entry will include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.,* unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.,* clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, *etc.*), and any other notable information. The acoustic detection can also be recorded for further analysis.

PSVO Data and Documentation

PSVOs 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 power down or shut down of the airguns when a marine mammal is within or near the EZ.

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, 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 and power downs or shut downs will be recorded in a standardized format. Data will be entered into an electronic database. The accuracy of the data entry will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power down or 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 and turtles in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals and turtles 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.

L–DEO 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 and turtles 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 ''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 the IHA (if issued), such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or

entanglement), L–DEO shall 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 *ITP.Cody@noaa.gov* and the Pacific Islands Regional 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 will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with L–DEO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. L–DEO may not resume their activities until notified by NMFS via letter, e-mail, or telephone.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSVO 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), L–DEO 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 *ITP.Cody@noaa.gov* and the Pacific Islands Regional Stranding Coordinator at 808–944–2269 (*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 L–DEO to determine whether modifications in the activities are appropriate.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSVO 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), L–DEO 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 *ITP.Cody@noaa.gov* and the Pacific Islands Regional Stranding Coordinator at 808–944–2269 (*David.Schofield@noaa.gov*), within 24 hours of the discovery. L–DEO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

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 central 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 decibels (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 L–DEO seeks the IHA. The required mitigation and monitoring measures will minimize any potential risk for injury or mortality.

The following sections describe L–DEO'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 geophysical survey. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the 36-airgun array to be used during approximately 2,120 km (1,317.3 mi) of survey lines.

L–DEO 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. Based on the best available science, such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, L–DEO provides no additional allowance for animals that could be affected by sound sources other than airguns.

Density data on the marine mammal species in the proposed survey area are available from two sources: (1) The NMFS Southwest Fishery Science Center (SWFSC) habitat model that estimates cetacean densities on a finer spatial scale than traditional line-transect analyses by using a continuous function of habitat variables, *e.g.,* sea surface temperature, depth, distance from shore, and prey density (Barlow *et al.,* 2009b); and (2) densities from the offshore stratum of the surveys of Hawaiian waters conducted in August–November 2002 (Barlow, 2006).

For the eastern tropical Pacific Ocean (ETP), the SWFSC based the models on data from 12 SWFSC ship-based cetacean and ecosystem assessment surveys conducted during July–December 1986–2006, extending just into the proposed survey area.

The models have been incorporated into a Web-based Geographic Information System (GIS) developed by Duke University's Department of Defense Strategic Environmental Research and Development Program (SERDP) team in close collaboration with the SWFSC SERDP team (Read *et al.,* 2009). For the cetacean species in the model, we used the GIS to obtain mean densities in the proposed survey area, *i.e.,* in a rectangle bounded by 150 and 156° W and 5 and 10° N.

Table 3 in L–DEO's application shows estimated densities for each cetacean species that could occur in the proposed survey area. They have corrected the densities for both trackline detection probability and availability bias by the authors. Trackline detection probability bias is associated with diminishing sightability with increasing lateral distance from the trackline [$f(0)$]. Availability bias refers to the fact that there is less than a 100 percent

probability of sighting an animal that is present along the survey trackline [*g*(0)].

Because survey effort within the proposed survey area is limited, and densities for some species are from offshore Hawaiian waters, there is some uncertainty about the representativeness of the data and the assumptions used in the calculations below. However, the approach used here is believed to be the best available approach.

L–DEO's estimates of exposures to various sound levels assume that the proposed surveys will be completed. 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. L–DEO has included an additional 25% of line transects to account for mission uncertainty and to accommodate turns and lines that may need to be repeated. Furthermore, any marine mammal sightings within or near the designated exclusion zones will result in the power down or 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 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.

L–DEO 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 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 and the expected density of marine mammals. The number of possible exposures (including repeated exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160-dB radius around the operating airguns, including areas of overlap. In the proposed survey, the seismic lines are parallel and in close proximity; thus individuals could be exposed on two or more occasions. The area including overlap is 1.5 times the area excluding overlap. Thus a marine mammal that stayed in the survey area during the entire survey could be exposed two times, on average. Moreover, it is unlikely that a particular animal would stay in the area during the entire survey.

The number of different individuals potentially exposed to received levels greater than or equal to 160 re: 1 μPa was calculated by multiplying:

(1) The expected species density, times; and

(2) The anticipated area to be ensonified to that level during airgun operations excluding overlap, which is approximately 10,971 square kilometers (km^2) (4,235.9 square miles (mi^2).

The area expected to be ensonified 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) around each seismic line, and then calculating the total area within the buffers. Areas of overlap were included only once when estimating the number of individuals exposed. Applying this approach, approximately 13,714 km^2 (5,295 mi^2) would be within the 160-dB isopleth on one or more occasions during the survey. Because this approach does not allow for turnover in the mammal populations in the study area during the course of the survey, the actual number of individuals exposed could be underestimated. However, the approach assumes that no cetaceans will move away from or toward the trackline as the *Langseth* approaches in response to increasing sound levels prior to the time the levels reach 160 dB, which will result in overestimates for those species known to avoid seismic vessels.

Table 3 in this notice shows estimates of the number of individual cetaceans that potentially could be exposed to greater than or equal to 160 dB re: 1 μPa during the seismic survey if no animals moved away from the survey vessel. The requested take authorization is shown in the far right column of Table 3. For endangered species, the requested take authorization reflects the mean group size in the ETP (Jackson *et al.,* 2008) 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 blue whale). For non-listed species, the requested take authorization reflects the mean group size in the SWFSC survey area (Barlow *et al.,* 2008) for the particular species in cases where the calculated number of individuals exposed was between one and the mean group size.

The total 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 during the proposed survey is 5,124 (see Table 3 in this notice; Table 4 in L–DEO's application). That total includes: Eight Bryde's whales or 0.6 percent of the regional population; two blue whales (endangered under the ESA) or less than 0.01 percent of the regional population); and 41 sperm whales (also listed as endangered) or 2.97 percent of the regional population could be exposed during the survey. In addition, 110 beaked whales (91 Cuvier's, six Longman's, 14 Longman's beaked whales, and five *Mesoplodon* spp.) could be exposed during the survey (see Table 3 in this notice; Table 4 in L–DEO's application). Most (94.8 percent) of the cetaceans that could be potentially exposed are delphinids (*e.g.,* spinner, pantropical spotted, and striped dolphins are estimated to be the most common species in the area) with maximum estimates ranging from five to 2,516 species exposed to levels greater than or equal to 160 dB re: 1 μPa.

TABLE 3—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO DIFFERENT SOUND LEVELS DURING L–DEO'S PROPOSED SEISMIC SURVEY IN THE CENTRAL PACIFIC OCEAN DURING NOVEMBER, 2011 THROUGH JANUARY, 2012

Species	Estimated number of individuals exposed to sound levels ≥160 dB re: 1 μPa[1]	Approximate percent of regional population[2]	Requested take authorization
Bryde's whale	8	0.06	8
Blue whale	0	<0.01	[4] 2
Sperm whale	41	0.17	41
Dwarf sperm whale	105	0.94	105
Cuvier's beaked whale	91	0.46	91

TABLE 3—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO DIFFERENT SOUND LEVELS DURING L–DEO'S PROPOSED SEISMIC SURVEY IN THE CENTRAL PACIFIC OCEAN DURING NOVEMBER, 2011 THROUGH JANUARY, 2012—Continued

Species	Estimated number of individuals exposed to sound levels ≥160 dB re: 1 μPa[1]	Approximate percent of regional population[2]	Requested take authorization
Longman's beaked whale	6	2.07	[4]14
Mesoplodon spp[3]	5	0.02	5
Rough-toothed dolphin	17	0.02	17
Bottlenose dolphin	68	0.02	68
Pantropical spotted dolphin	1,651	0.13	1,651
Spinner dolphin	2,516	0.14	2,516
Striped dolphin	226	0.02	226
Fraser's dolphin	61	0.02	[4]182
Risso's dolphin	11	0.01	[4] 14
Melon-headed whale	18	0.04	[4] 101
False killer whale	1	< 0.01	[4] 9
Killer whale	2	0.02	[4] 5
Short-finned pilot whale	69	0.01	69

[1] Estimates are based on densities from Table 3 and an ensonified area (including 25 percent contingency) of 13,714 km^2.
[2] Regional population size estimates are from Table 2.
[3] Includes ginkgo-toothed and Blainville's beaked whales.
[4] Requested take authorization increased to mean group size (see text on page 59).

Based upon densities estimates for humpback, sei, fin, minke, pygmy sperm, and pygmy killer whales (Barlow *et al.,* 2009; Read *et al.,* 2009) within the action area, L–DEO has not requested take for these species. NMFS preliminarily concurs with this analyses and the proposed authorization will not include authorize take for these species.

Encouraging and Coordinating Research

L–DEO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey in the central Pacific Ocean with other parties that may have interest in the area and/or be conducting marine mammal studies in the same region during the proposed seismic survey.

Negligible Impact and Small Numbers Analysis and Preliminary 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 considers:

(1) The number of anticipated mortalities;

(2) The number and nature of anticipated injuries;

(3) The number, nature, and intensity, and duration of Level B harassment; and

(4) The context in which the takes occur.

As mentioned previously, NMFS estimates that 20 species of marine mammals could be potentially affected by Level B harassment over the course of the IHA.

For reasons stated previously in this document, no injuries or mortalities are anticipated to occur as a result of L–DEO's proposed seismic survey, and none are proposed to be authorized by NMFS. Additionally, for reasons presented earlier in this document, temporary hearing impairment (and especially permanent hearing impairment) is not anticipated to occur during the proposed specified activity.

Impacts to marine mammals are anticipated to be in the form of Level B behavioral harassment only, due to the brief duration and sporadic nature of the survey. Certain species may have a behavioral reaction (*e.g.,* increased swim speed, avoidance of the area, *etc.*) to the sound emitted during the proposed marine seismic survey. 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. However, alternate areas are available to these species. The location of the survey is not a known feeding ground for these species and it is not used for breeding or nursing.

For reasons stated previously in this document, the specified activities associated with the proposed survey are not likely to cause TTS, PTS or other non-auditory injury, serious injury, or death to affected marine mammals 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 fact that cetaceans would have to be closer than 400 m (1,312 ft) in deep water when the 36-airgun array is in use at a 9 m (29.5 ft) tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS;

(3) The fact that marine mammals would have to be closer than 3,850 m (2.4 mi) in deep water when the full array is in use at a 9 m (29.5 ft) tow depth from the vessel to be exposed to levels of sound (160 dB) believed to have even a minimal chance at causing TTS; and

(4) The likelihood that marine mammal detection ability by trained observers is high at that short distance from the vessel.

Table 3 in this document outlines the number of Level B harassment takes that are anticipated as a result of the proposed activities. No mortality or injury is expected to occur, and due to the nature, degree, and context of behavioral harassment anticipated, the activity is not expected to impact rates of recruitment or survival. The proposed survey would not occur in any areas designated as critical habitat for ESA-listed species. Additionally, as

mentioned previously in this document, the proposed seismic survey will not destroy marine mammal habitat.

Of the 26 marine mammal species likely to occur in the proposed survey area, six are listed as endangered under the ESA: The humpback, sei, fin, blue, and sperm whale and the Hawaiian monk seal. These species are also considered depleted under the MMPA. However, no take of endangered humpback, sei, or fin, whales was requested because of the low likelihood of encountering these species during the cruise.

For the 20 species for which take was requested, the requested take numbers are small (each, less than two and one-half percent) relative to the population size. The population estimates for the species that may potentially be taken as a result of L–DEO's proposed seismic survey were presented earlier in this document. For reasons described earlier in this document, the maximum calculated number of individual marine mammals for each species that could potentially be taken by harassment is small relative to the overall population sizes (0.06 percent for Bryde's whales, less than 0.01 percent for the endangered blue whale, 0.17 percent for the endangered sperm whale, and less than 2.5 percent of the other 15 mammal populations or stocks).

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 L–DEO'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 geophysical survey will have a negligible impact on the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, six are listed as endangered under the ESA, including the humpback, sei, fin, blue, and sperm whales and the Hawaiian monk seal. However, L–DEO is only requested Level B incidental harassment of two species: The humpback and sperm whales. L–DEO did not request take of endangered humpback, sei, or fin, whales because of the low likelihood of encountering these species during the cruise. 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' Office of Protected Resources, Permits, Conservation and Education Division, has initiated formal consultation under section 7 of the ESA with NMFS' 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, L–DEO, 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' Biological Opinion issued to both NSF and NMFS' Office of Protected Resources.

National Environmental Policy Act (NEPA)

To meet NMFS' National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requirements for the issuance of an IHA to L–DEO, NMFS will prepare an Environmental Assessment (EA) titled ''Issuance of an Incidental Harassment Authorization to the Lamont-Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Central Pacific Ocean, November, 2011 through January, 2012.'' This EA will incorporate the NSF's Environmental Analysis Pursuant To Executive Order 12114 (NSF, 2010) and an associated report (Report) prepared by LGL Limited Environmental Research Associates (LGL) for NSF, titled, ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Central Pacific Ocean, November—December 2011,'' by reference pursuant to 40 CFR 1502.21 and NOAA Administrative Order (NAO) 216–6 § 5.09(d). Prior to making a final decision on the IHA application, NMFS will make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to authorize the take of marine mammals incidental to L–DEO's proposed marine seismic survey in the central Pacific Ocean, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 14, 2011.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–23985 Filed 9–16–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Wage Committee

AGENCY: Department of Defense.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a closed meeting of the Department of Defense Wage Committee will be held on Tuesday, October 4, 2011, at 10 a.m. at 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: September 13, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–23919 Filed 9–16–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Wage Committee

AGENCY: Department of Defense.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a closed meeting of the Department of Defense Wage Committee will be held on Tuesday, October 18, 2011, at 10 a.m. at 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia 22209.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: September 13, 2011.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–23920 Filed 9–16–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

ACTION: Notice of Meeting of the Air University Board of Visitors.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Air University Board of Visitors' meeting will take place on Tuesday, 4 October 2011, from 1:30 p.m. to approximately 2:30 p.m. The meeting will be a conference call meeting. Please contact Mrs. Diana Bunch, Designated Federal Officer, at (334) 953–4547, for further information to access the conference call. The purpose and agenda of this meeting is to provide independent advice and recommendations on matters pertaining to the strategic positioning of Air University's educational mission.

Pursuant to 5 U.S.C. § 552b, as amended, and 41 CFR 102–3.155 all sessions of the Air University Board of Visitors' meeting will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Additionally, any member of the public wishing to attend this meeting should contact either person listed below at least five calendar days prior to the meeting for information on base entry passes.

FOR FURTHER INFORMATION CONTACT: Mrs. Diana Bunch, Designated Federal Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–4547.

Bao-Anh Trinh,

DAF, Air Force Federal Register Liaison Officer.

[FR Doc. 2011–23925 Filed 9–16–11; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare an Environmental Impact Statement (EIS) for a Permit Application for Widening of Bayou Casotte and Lower Sound Channels of the Pascagoula Harbor Channel, in the Port of Pascagoula, Jackson County, Mississippi

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) Mobile District Regulatory Division announces its intent to prepare an EIS to assess the potential environmental impacts associated with widening the existing Pascagoula Lower Sound/Bayou Casotte Federal Channel segment of Pascagoula Harbor (the Project). The proposed Project is a 100-foot-widening of the Lower Sound and Bayou Casotte Legs of the Pascagoula Harbor Channel, as well as limited widening of the northern portion of the Horn Island Pass Channel to facilitate the transition between the two channel segments. The Corps is considering the Jackson County Port Authority/Port of Pascagoula (Port) application for a Department of the Army permit under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research, and Sanctuaries Act. A joint public notice for the Section 10 permit (SAM–2011–00389–PAH) was issued by the Corps on April 15, 2011.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS can be answered by Mr. Philip A. Hegji, Corps Project Manager, at (251) 690–3222. Comments shall be addressed to: U.S. Army Corps of Engineers, Mobile District, Regulatory Division, ATTN: File Number SAM–2011–00389–PAH, at P.O. Box 2288, Mobile, Alabama 36628–0001, or street address, 109 St. Joseph Street, Mobile, Alabama 36602.

SUPPLEMENTARY INFORMATION:

1. Background. The EIS will assess the impacts associated with dredging approximately 38,137 feet (7.22 miles) of the existing Pascagoula Lower Sound/Bayou Casotte Federal Channel segment to widen the channel 100 feet parallel to the existing channel centerline, to the existing depth of −42 feet mean lower low water, as well as the beneficial use and placement of the dredged material. The proposed project would be developed over approximately the next 2 to 3 years.

The EIS discussed in this notice would support the regulatory process for this specific permit application and Project. The Corps Planning Division is also preparing a separate EIS and Feasibility Study under the Corps Planning Process to evaluate whether there is a Federal interest in modifying the existing federally authorized navigation channel (Federal Navigation Channel) leading to Bayou Casotte (*i.e.,* Pascagoula channel widening from the Horn Island Pass to the entrance of the Bayou Casotte Harbor) and maintenance of the channel.

The primary Federal involvement in this EIS for the Regulatory Division is an

application for a permit to dredge or excavate adjacent to a Federal Navigation Channel in or affecting navigable waters of the United States, and potential impacts on the human environment from such activities, as well as the disposal of material in the littoral disposal area, which could be suitable for beneficial use. Also included in the evaluation is the placement of dredged material within the U.S. Environmental Protection Agency (EPA) designated Pascagoula Ocean Dredged Material Disposal Site (ODMDS) and the designated Littoral Zone Placement Area located east and south of the barrier island. It is anticipated that the excavated area would become part of the Federal Navigation Channel in the future, if the Corps adopts maintenance of the widened area, pending approval of the Corps Planning documents described above. No wetland impacts are known to exist at the proposed dredge disposal site. In accordance with the National Environmental Policy Act (NEPA), the Corps is requiring the preparation of an Environmental Impact Statement (EIS) prior to rendering a final decision on the Port's permit application, based on potentially significant impacts to water quality, cultural resources, endangered or threatened species, or sediment transport. The Corps may ultimately make a determination to approve the permit, approve the permit with conditions, or deny the permit for the above project.

This effort will also support non-federal construction of the project and, in concert with the parallel Planning Division EIS, the potential federal maintenance under the authority of Section 204(b) of the Water Resources Development Act of 1986.

Pursuant to the National Environmental Policy Act of 1969 (as amended), the Corps will serve as Lead Agency for the Preparation of an EIS. The Draft EIS is intended to be sufficient in scope to address both the Federal and the state and local requirements and environmental issues concerning the proposed activities and permit approvals. The National Marine Fisheries Service (NMFS) has expressed interest in acting as a cooperating agency in the preparation of the EIS.

2. Project Purpose and Need. The overall project purpose is to widen the existing Federal Navigation Channel, including excavation, as needed, to reconfigure the site to alleviate the current transit restrictions and increase travel efficiencies for vessel transit, improve safety conditions for vessel operations, improve conditions for port operations, and improve habitat conditions through the beneficial use of dredged material.

3. Issues. There are several potential environmental issues that will be addressed in the EIS. Additional issues may be identified during the scoping process. Issues initially identified as potentially significant include:

a. Impacts to traffic, including marine navigation and ground transportation;

b. Potential impacts to endangered and threatened species;

c. Air quality;

d. Water quality;

e. Socioeconomic effects;

f. Cumulative impacts; and

g. Placement of dredged materials.

4. Alternatives. Alternatives initially being considered for the proposed improvement project include the following:

a. No Project/No Action. .This alternative would not implement any of the elements presented in the project description.

b. Widening 100 feet on the West Side. This alternative is the proposed Project to widen the Federal Channel segment approximately 100 feet parallel to the existing channel centerline, to the existing depth of −42 feet mean lower low water. The width may be increased as necessary to allow adequate transit for navigation in transition zones. The improved channel would be 7.22 miles long and result in excavation of approximately 3.4 to 3.8 million cubic yards of dredged material.

c. Widening of 50 feet on Either Side of the Channel Centerline. This alternative includes a proposal to widen the Federal Channel segment, approximately 50 feet on either side of the existing channel centerline, to the existing depth of −42 feet mean lower low water. The width may be increased as necessary to allow adequate transition for navigation. The improved channel would be similar in length and dredged material quantities to the proposed Project (widening 100 feet on the West Side).

5. Scoping Process. As part of the Corps Planning Division EIS, a public scoping meeting was conducted for the proposed Bayou Casotte and Lower Sound Channels Widening of the Pascagoula Harbor Channel. The meeting was held to receive public comments and assess public concerns regarding the appropriate scope and preparation of the Draft EIS. Participation in the public meeting by Federal, State, and local agencies and other interested organizations and persons was encouraged. This meeting was conducted in English, and was held on Thursday, February 25, 2010 from 5:30 p.m. to 7:30 p.m., located at the Pascagoula Public Library, 3214 Pascagoula Street, Pascagoula, MS 39567.

A comment period was held for the Regulatory Division on the permit application, which was noticed April 15, 2011. The comment period was held from April 15, 2011 to May 16, 2011.

The Corps will be accepting written comments on this Notice of Intent to prepare an EIS, and they will be taken into consideration during development of the document. We encourage any additional comments from interested public, agencies, and local officials. Written and e-mailed comments to the Corps will be received until October 20, 2011. Written comments should be sent to the address below:

U.S. Army Corps of Engineers, Mobile District, Regulatory Division, c/o Philip A. Hegji, 109 St. Joseph Street, Mobile, Alabama 36628–0001, e-mail: *Philip.A.Hegji@usace.army.mil.*

6. Availability of the Draft EIS. The Corps expects the Draft EIS to be made available to the public in late spring 2012. A public hearing will be held during the public comment period for the Draft EIS.

Dated: September 9, 2011.

Craig J. Litteken,

Chief, Regulatory Division.

[FR Doc. 2011–23994 Filed 9–16–11; 8:45 am]

BILLING CODE P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Senior Executive Service Performance Review Board

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice.

SUMMARY: This notice announces the membership of the Defense Nuclear Facilities Safety Board (DNFSB) Senior Executive Service (SES) Performance Review Board (PRB).

DATES: *Effective Date:* September 19, 2011.

ADDRESSES: Send comments concerning this notice to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2001.

FOR FURTHER INFORMATION CONTACT: Deborah Biscieglia by telephone at (202) 694–7041 or by e-mail at *debbieb@dnfsb.gov.*

SUPPLEMENTARY INFORMATION: 5 U.S.C. 4314(c)(1) through (5) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more

performance review boards. The PRB shall review and evaluate the initial summary rating of the senior executive's performance, the executive's response, and the higher level official's comments on the initial summary rating. In addition, the PRB will review and recommend executive performance bonuses and pay increases.

The DNFSB is a small, independent Federal agency; therefore, the members of the DNFSB SES Performance Review Board listed in this notice are drawn from the SES ranks of other agencies. The following persons comprise a standing roster to serve as members of the Defense Nuclear Facilities Safety Board SES Performance Review Board:

Christopher E. Aiello, Director of Human Resources, Federal Deposit Insurance Corporation
David M. Capozzi, Director of Technical and Information Services, United States Access Board
Edward C. Hobson, Associate Director for Safety and Security, Peace Corps
Steven G. McManus, Deputy Chief Operating Officer, Armed Forces Retirement Home
Barry S. Socks, Chief Operating Officer, National Capital Planning Commission
Christopher W. Warner, General Counsel, U.S. Chemical Safety and Hazard Investigation Board

Dated: September 12, 2011.

Brian Grosner,

Chairman, Executive Resources Board.

[FR Doc. 2011–23884 Filed 9–16–11; 8:45 am]

BILLING CODE 3670–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, October 6, 2011, 6 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Joel Bradburne, Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3822, *Joel.Bradburne@lex.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda.
- Approval of September Minutes.
- Deputy Designated Federal Officer's Comments.
- Federal Coordinator's Comments.
- Liaisons' Comments.
- Presentation.
- FLUOR B&W Community Commitment Plan Update, Jerry Schneider.
- Administrative Issues:
  - Subcommittee Updates.
- Motions:
  - Second Reading of the amendment to the Operating Procedures: Section VI. Board Structure C 3a. fourteen days changed to seven days as proposed by the Executive Committee.
- Public Comments.
- Final Comments.
- Adjourn.

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Joel Bradburne at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Joel Bradburne at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Joel Bradburne at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC on September 14, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–23941 Filed 9–16–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Coal Council

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). The *Federal Advisory Committee Act* (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Friday, October 21, 2011, 9 a.m. to 12 p.m.

ADDRESSES: The Embassy Suites Convention Center, 900 10th Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Michael J. Ducker, U.S. Department of Energy; 4G–036/Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–1290; Telephone: (202) 586–7810.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To conduct an open meeting of the NCC and to provide an update of the current NCC study.

Tentative Agenda

- Welcome and Call to Order by NCC Chair.
- Keynote address by Secretary Steven Chu, Department of Energy.
- Presentation by Phil Ren on the Northeast Asia Coal Exchange Center.
- Presentation by Barry Worthington, President of the U.S. Energy Agency.
- Presentation by Lynn Sprague, National Museum of Forest Service History, on reforestation and reclamation of mine lands.
- Council Business.
- Adjourn.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any potential items on the agenda, you should contact Michael J. Ducker, (202) 586–7810 or *Michael.Ducker@HQ.DOE.GOV* (e-mail). You must make your request for an oral statement at least 5 business days before

the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The NCC will prepare meeting minutes within 45 days of the meeting. The minutes will be posted on the NCC Web site at *http://www.nationalcoalcouncil.org/*.

Issued: September 13, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–23943 Filed 9–16–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Docket No. EERE–2011–BT–BC–0046]

Building Energy Codes Cost Analysis

Correction

In notice document 2011–23236 beginning on page 56413 in the issue of Tuesday, September 13, 2011 make the following correction:

On page 56422 the heading ''Table 1. Cash flow components'' should read ''Table 7. Cash flow components''.

[FR Doc. C1–2011–23236 Filed 9–16–11; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–116–000.

Applicants: International Transmission Company.

Description: ITC Section 203 Application Regarding Pine Tree Acres Line.

Filed Date: 09/09/2011.

Accession Number: 20110909–5089.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4468–000.

Applicants: Energy Investments, LLC.

Description: Energy Investments, LLC submits tariff filing per 35.1: Energy Investments LLC MBR to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5060.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4469–000.

Applicants: Columbia Utilities Power, LLC.

Description: Columbia Utilities Power, LLC submits tariff filing per 35.1: Columbia Utilities Power FERC Electric Tariff to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5066.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4470–000.

Applicants: Palmco Power NJ, LLC.

Description: Palmco Power NJ, LLC submits tariff filing per 35.1: Palmco Power NJ FERC Electric Tariff to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5078.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4471–000.

Applicants: Palmco Power PA, LLC.

Description: Palmco Power PA, LLC submits tariff filing per 35.1: Palmco Power PA FERC Electric Tariff to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5081.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4472–000.

Applicants: Palmco Power CT, LLC.

Description: Palmco Power CT, LLC submits tariff filing per 35.1: Palmco Power CT FERC Electric Tariff to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5082.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4473–000.

Applicants: Palmco Power MD, LLC.

Description: Palmco Power MD, LLC submits tariff filing per 35.1: Palmco Power MD FERC Electric Tariff to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5083.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4474–000.

Applicants: Oceanside Power LLC.

Description: Oceanside Power LLC submits tariff filing per 35.1: Oceanside Power LLC Baseline Tariff Filing to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5099.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4475–000.

Applicants: Rockland Wind Farm LLC.

Description: Rockland Wind Farm LLC submits tariff filing per 35.12: Rockland Wind Farm LLC—Market-Based Tariff Filing to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5121.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4476–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc. submits tariff filing per 35.13(a)(2)(iii: Revised JOATT Section 23 to be effective 6/23/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5142.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4477–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc. submits tariff filing per 35.13(a)(2)(iii: Mid-Kansas Electric Company, LLC, Balancing Area Services Agreement to be effective 9/1/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5146.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4478–000.

Applicants: White Creek Wind I, LLC.

Description: White Creek Wind I, LLC submits tariff filing per 35.1: White Creek Wind I, LLC MBR Tariff to be effective 8/1/2007.

Filed Date: 09/08/2011.

Accession Number: 20110908–5147.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4479–000.

Applicants: Endure Energy, L.L.C.

Description: Endure Energy, L.L.C. submits tariff filing per 35.1: Market Based Rates Re-file to be effective 9/8/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5168.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4480–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii: 2011–09–08 CAISO CDWR PLA Extension to be effective 9/10/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5169.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4481–000.

Applicants: Black Hills Power, Inc.

Description: Black Hills Power, Inc. submits tariff filing per 35.13(a)(2)(iii: Revised BH Power, Inc., JOATT Section 23 to be effective 9/9/2011.

Filed Date: 09/08/2011.

Accession Number: 20110908–5171.

Comment Date: 5 p.m. Eastern Time on Thursday, September 29, 2011.

Docket Numbers: ER11–4482–000.

Applicants: Madstone Energy Corp.

Description: Madstone Energy Corp submits tariff filing per 35.12: FERC Electric Tariff to be effective 10/31/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5001.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Docket Numbers: ER11–4483–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: ISO–NE OATT Schedule 21—CTMEEC to be effective 11/6/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5021.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Docket Numbers: ER11–4484–000.

Applicants: Victoria International Ltd.

Description: Victoria International Ltd. submits tariff filing per 35.1: Victoria International Ltd Baseline Tariff Filing to be effective 9/9/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5032.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Docket Numbers: ER11–4485–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: PJM Service Agreement No. 3047 among PJM, Alethea and JCP&L to be effective 8/10/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5077.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Docket Numbers: ER11–4486–000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC submits tariff filing per 35.13(a)(2)(iii: Filing of Agreements with Central Iowa Power Cooperative to be effective 11/9/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5101.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

Docket Numbers: ER11–4487–000.

Applicants: Public Service Company of Colorado.

Description: Public Service Company of Colorado submits tariff filing per 35.13(a)(2)(iii: 2011–9–9_308–PSCo_WAPA_Richard Lk Mtr to be effective 4/14/2011.

Filed Date: 09/09/2011.

Accession Number: 20110909–5104.

Comment Date: 5 p.m. Eastern Time on Friday, September 30, 2011.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before *5 p.m.* Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 9, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–23921 Filed 9–16–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9466–2]

Notice of the Availability of the Draft Framework for the U.S.-Mexico Environmental Program: Border 2020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the Secretaria de Medio Ambiente y Recursos Naturales (Mexico's Secretariat of Environment and Natural Resources, SEMARNAT) is announcing the availability of the draft document, ''Border 2020: U.S.-Mexico Environmental Program''. Border 2020 is an eight-year, bi-national, results-oriented, environmental program for the U.S.-Mexico border region, which has been developed by the EPA and SEMARNAT, the 26 U.S. border Tribes, the indigenous communities of Mexico and the environmental agencies from each of the ten U.S.-Mexico border states.

The proposed Border 2020 Program is the latest multi-year, bi-national planning effort to be implemented under the La Paz Agreement and succeeds Border 2012, a ten-year program that will end in 2012. The mission of Border 2020 is ''to protect public health and the environment in the U.S.-Mexico border region, consistent with the principles of sustainable development''. EPA is requesting comments from interested parties and border stakeholders on the draft Border 2020 Framework.

DATES: Written comments must be submitted no later than November 30, 2011.

ADDRESSES: Written comments can be submitted by mail or fax to EPA Office of International and Tribal Affairs (OITA) or either of EPA's Border Offices (see section VI–C). Comments can also be submitted on EPA's U.S.-Mexico Border Web site at: *http://www.epa.gov/border2012.* In addition, EPA will be accepting comments at public meetings to be held throughout the border region during September and October 2011. The draft framework, ''Border 2020: U.S.-Mexico Environmental Program'', is posted in English and Spanish on EPA's Border Web page at: *http://www.epa.gov/border2012.* In addition, English/Spanish copies of the draft document can be requested by contacting the EPA Office of International and Tribal Affairs, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Telephone: 202–564–5736.

FOR FURTHER INFORMATION CONTACT: Laura E. Gomez Rodriguez at 202–564–5736.

SUPPLEMENTARY INFORMATION:

I. Background

For decades, the U.S. and Mexico have collaborated on efforts to protect the environment and health of border communities. One of the first bi-national efforts was the Border XXI Program, which was initiated in 1996 with a five-year plan for addressing the most challenging environmental and environmentally-related health problems in the region. The formal foundation for these bi-national efforts is the La Paz Agreement (*http://www.epa.gov/usmexicoborder/2002/efpaz.htm*) signed by Presidents De la Madrid and Reagan in 1983. The agreement is implemented through multi-year bi-national programs such as Border XXI, Border 2012 and now the new Border 2020 program. Although most of the Border XXI projects were implemented at the local level, its organizational structure emphasized border-wide coordination and planning. Nine border-wide workgroups—each focused on a particular environmental

program, such as air quality or hazardous waste management—coordinated the efforts of various Federal, state, Tribal and local governmental activities in the border area. The existing Border 2012 Program builds upon the successes achieved under Border XXI while also establishing a regionally-focused border plan to facilitate environmental priority setting and planning at the regional and local levels.

Border 2012 is a 10-year, bi-national, results-oriented, environmental program for the U.S.-Mexico border region, which was developed by the EPA, the U.S. Department of Health and Human Services, Secretaría de Medio Ambiente y Recursos Naturales (Mexico's Secretariat of Environment and Natural Resources), Secretaría de Salud (Mexico's Secretariat of Health), the 26 U.S. border Tribes, and the environmental agencies from each of the ten U.S.-Mexico border states. The Border 2012 Program is a multi-year, bi-national planning effort to be implemented under the La Paz Agreement and succeeds Border XXI, a five-year program that ended in 2000. The mission of Border 2012 is ''to protect public health and the environment in the U.S.-Mexico border region, consistent with the principles of sustainable development''. Border 2020 will continue to operate under the existing Border 2012 bottom-up approach, which incorporates local decision making within priority setting and project implementation process. Border 2020 will also continue to emphasize concrete measurable results, public participation, transparency and access to environmental information.

New features of the Border 2020 Program are the following: (1) Integration of fundamental principles to be used as we approach and consider complex and critical challenges faced by border communities along the U.S.-Mexico Border ; (2) a focus on improving environmental health through chemical safety; and (3) the use of Action plans that will establish priority and near-term targets that pay attention to the particular needs of a community or geographic area and adapt to unanticipated resource constraints.

II. Coordinating Bodies

Border 2020 will continue to be organized around coordinating bodies. These coordinating bodies include the following: The National Coordinators, six Policy For a, and four Regional (geographically-focused) Workgroups.

A. National Coordinators

Consistent with the requirements of the La Paz Agreement, the National Coordinators will monitor and manage implementation of the Border 2020 Program and ensure cooperation and communication among all coordinating bodies.

B. Policy Fora

Policy Fora concentrate on issues that are *border-wide* and *multi-regional* (identified as a priority by two or more regional workgroups), *primarily Federal in nature* (requiring direct, high-level, and sustained leadership by Federal program partners in the United States and Mexico) and that might require broad policy considerations. Each of the six Policy Fora will have a Federal co-chair from the United States and Mexico, respectively.

C. Regional Workgroups

Regional Workgroups are *multi-media* and *geographically-focused,* and emphasize regional public health and environmental issues. They coordinate activities at the regional level and support the efforts of local Task Forces. Each Regional Workgroup will have one state and one Federal co-chair from each country. Four bi-national workgroups have been established in the following regions:

California-Baja California;

Arizona-Sonora;

New Mexico-Texas-Chihuahua;

Texas-Coahuila-Nuevo León-Tamaulipas.

The Policy Fora and the Regional Workgroups will be broad-based and will include representation from local communities from both sides of the border, including non-governmental or community-based organizations; academic institutions; local, state, and Tribal representatives; and bi-national organizations (such as the Border Environmental Cooperation Commission or the North American Development Bank) with expertise in the given workgroup's subject area.

Except for the National Coordinators, the coordinating bodies may create Task Forces to address specific community-identified concerns and implement site-specific projects. Task Forces will be led by a ''team leader'' from each country and may be from any sector of government (including Tribal governments), the private sector, academia, or from non-governmental organizations.

III. Goals and Objectives

Border 2020 establishes the following six environmental goals for the U.S.-Mexico border region:

Goal #1: Reduce Conventional Air Pollutant and GHG Emissions.
Goal #2: Improve Water Quality and Water Infrastructure Sustainability and Reduce Exposure to Contaminated Water.
Goal #3: Materials Management and Clean Sites.
Goal #4: Improve Environmental and Public Health through Chemical Safety.
Goal #5: Enhance Joint Preparedness for Environmental Response.
Goal #6: Improve Environmental Management through Compliance and Enforcement, Pollution Prevention, and Promotion of Responsible Environmental Management.

IV. Reporting Results

The coordinating bodies will prepare Highlight reports that describe the accomplishments and successes under the Border 2020 program every three years (2015, 2018). In addition, a comprehensive mid-term (2016) and final progress report (2020) that describe progress on meeting the goals and objectives of the program, including environmental indicators will be made available accordingly. Indicator reports which will measure progress being made toward Border 2020 goals and objectives will be developed during the third and seventh year of the program.

V. Fundamental Principles

As a companion to the six strategic goals (and associated objectives), which outline the anticipated results we hope to achieve in the next eight years, the following five Fundamental Principles provide the expectation for how we will approach and consider complex and critical challenges faced by border communities along the U.S.-Mexico Border. The fundamental principles will complement and inform the work that we do to achieve the mission and goals of the Border 2020 program. They are identified as follows:

Climate Change;
Disadvantaged and Underserved Communities;
Children's Health;
Environmental Education;
Strengthening State, Tribal and International Partnerships.

VI. Public Input and Participation During the Comment Period

EPA and SEMARNAT are seeking input from border stakeholders and other interested parties about the

proposed Border 2020 program. We invite public comments related to all aspects of the proposed Border 2020 plan, and, in particular, we are interested in comments related to: How well will the six long-term strategic goals address the serious environmental and environmentally-related public health challenges in the border region. The draft Border 2020 framework document is available online for viewing at *http://www.epa.gov/border 2012.* A number of opportunities for the public to comment on the draft document are provided as follows:

A. EPA U.S.-Mexico Border Web Site

Individuals can submit comments directly by filling out the public comment form at: *http://www.epa.gov/border2012 .*

B. Public Meetings

A number of public meetings will be held in September and October 2011. For meeting locations and times, please check the EPA U.S.-Mexico Border Web site or contact the EPA Office of International and Tribal Affairs. Public comment will be accepted at these meetings.

C. Interested parties can also mail or fax comments to the EPA OITA, Region 9 or Region 6 Border Offices or SEMARNAT at the addresses and/or fax numbers listed below.

U.S. Environmental Protection Agency, Office of International and Tribal Affairs (MC–2650R), Laura E. Gomez Rodriguez, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Fax: (202) 565–2411.

Region 9—San Diego. Tomas Torres, EPA San Diego Border Office, 610 West Ash St., Suite 905, San Diego, CA 92101. Fax: (619) 235–4771.

Region 6—El Paso. Carlos Rincon, EPA El Paso Border Office, 4050 Rio Bravo, Ste. 100, El Paso, TX 79902. Fax: (915) 544–6026.

Secretaria del Medio Ambiente y Recursos Naturales (SEMARNAT), Boulevard Adolfo Ruiz Cortínez No. 4209 1er. piso Ala A, Fracc. Jardines en la Montaña, Delegación Tlalpan, México D.F., C.P. 14210.

D. Interested parties can also e-mail comments to EPA at *Border2020.comments@epa.gov* or SEMARNAT at *frontera2012@semarnat.gob.mx.*

VII. EPA's Relationship With U.S. Border Tribes in Border 2020

EPA will continue to honor its unique trust relationship with U.S. Indian Tribes and enforce its ''Policy for the Administration of Environmental Program on Indian Reservations'' within the Border 2020 U.S.-Mexico program. EPA recognizes that U.S. Tribal governments are sovereign and are the primary parties for setting standards, making environmental policy decisions, and managing environmental programs on Indian reservations.

Within the Border 2020 Program, EPA will comply with Executive Order 13175 or 13563, Consultation and Coordination with Indian Tribal Governments'' and work with Tribes when formulating and implementing policies or taking other actions that have a substantial direct effect on any Indian Tribe.

Dated: September 12, 2011.

Jane Nishida,

Director Office of Regional and Bilateral Affairs, Office of International and Tribal Affairs.

[FR Doc. 2011–23981 Filed 9–16–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 November 18, 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 Number: 3060–0627.

Title: Application for AM Broadcast Station License, FCC Form 302–AM.

Form Number: FCC Form 302–AM.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions.

Number of Respondents and Reponses: 380 respondents; 380 responses.

Estimated Time per Response: 4–20 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,800 hours.

Total Annual Costs: $16,651,600.

Obligation to Respond: The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 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: Licenses and permittees of AM broadcast stations are required to file FCC Form 302–AM to obtain a new or modified station license, and/or to notify the Commission of certain changes in the licensed facilities of these stations. Additionally, when changes are made to an AM station that alter the resistance of the antenna system, a licensee must initiate a determination of the operating power by the direct method. The results of this are reported to the Commission using the FCC 302–AM.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23942 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the *Paperwork Reduction Act (PRA) of 1995,* 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before November 18, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact *judith-b.herman@fcc.gov,* Office of Managing Director, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1122.

Title: Preparation of Annual Reports to Congress for the Collection and Expenditure of Fees or Charges for Enhanced 911 (E911) Services Under the NET 911 Improvement At of 2008.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, local or tribal government.

Number of Respondents and Responses: 56 respondents; 56 responses.

Estimated Time Per Response: 50 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in the *New and Emerging Technologies 911 Improvement Act of 2008,* Public Law 110–283, 122 Stat. 2620 (2008) (NET 911 Act).

Total Annual Burden: 2,800 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There are no assurances of confidentiality provided to respondents. The Commission's rules address the issue of confidentiality in sections 47 CFR 0.457, 0.459, and 0.461. These rules address access to records that are not routinely available to the public, requests and requirements that materials submitted to the Commission be withheld from public inspection, and requests for inspection of materials not routinely available to the public.

Needs and Uses: The Commission will submit this expiring information collection to the OMB after this comment period to obtain the three year clearance from them. There is no change in the Commission's burden estimates. There are no changes in the reporting and/or recordkeeping requirements.

The purpose of the information collection is to meet the Commission's ongoing statutory obligations under the *New and Emerging Technologies 911 Improvement Act of 2008,* which requires the Commission to submit an annual report to congress detailing the status in each state of the collection and distribution of such fees or charges, and including findings on the amount of revenues obligated or expended by each state or political subdivision thereof for any purpose other than the purpose for which any such fees or charges are specified.

Dated: September 12, 2011.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23955 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

September 12, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the *Paperwork Reduction Act (PRA) of 1995,* 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected;
(d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before November 18, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact *judith-b.herman@fcc.gov,* OMD, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1151.

Title: Sections 1.1420, 1.1422, and 1.1424, Pole Attachment Access Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,278 respondents; 54,932 responses.

Estimated Time per Response: 1–600 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation To Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 224.

Total Annual Burden: 683,169 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No confidentiality regarding recordkeeping or reporting. No known confidentiality between third parties.

Needs and Uses: The Commission is seeking OMB approval for an extension (no change in the reporting, recordkeeping and/or third party disclosure requirements.) There is no change in the Commission's burden estimates. The Commission received emergency OMB approval for this collection on June 21, 2011. This collection is now being submitted to OMB to secure the regular, three-year approval.

The rule sections are needed to implement the statutory mandate that communications companies (attachers) should be able to place facilities on utility poles. The rules set a series of deadlines or ''timelines'' to govern the process by which permission is sought by attachers and granted by utility pole owners. In practice, attachers must submit detailed applications that cause the utility to survey and perform an engineering analysis on the poles where access is requested.

The post-survey pole preparation work (make-ready) triggers further paperwork burdens. These include the pole owner notifying all known entities with existing attachments and the requesting attacher of the scheduled work. Other notification occurs if the make-ready period is interrupted, and if a pole owner asserts its right to one 15-day extension of time. Pole owners both perform make ready and coordinate with existing attachers over many weeks.

Also, the Order adopted rules intended to make the deadlines largely self-enforcing. Utilities are required to post a list of approved contractors. If a deadline is not met, new attachers may hire a listed, utility-approved contractor to perform pole attachment surveys or preparation in lieu of the utility using its own workers. If an attacher uses a utility-approved contractor, it must notify the utility, and invite the utility to send a representative to oversee the work. This self-enforcing mechanism removes some of the burden from the complaint process, which is often too slow to provide meaningful relief when pole access is denied or unreasonably delayed.

Finally, the Order also broadened the existing enforcement process by permitting incumbent local exchange carriers (LECs) to file complaints alleging that the attachment rates demanded by electric utilities are unreasonable. The Order also encourages incumbent LECs that benefit from lower pole attachment costs to file data at the Commission that demonstrates that the benefits are being passed on to consumers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23954 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Emergency Review and Approval to the Office of Management and Budget (OMB), Comments Requested

September 12, 2011.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 19, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov.* To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866. For additional information or copies of the information collection(s), contact *judith-*

b.herman@fcc.gov, OMD, 202–418–0214.

SUPPLEMENTARY INFORMATION: The Commission is seeking emergency OMB review by October 17, 2011 for this revised information collection and has requested OMB approval 20 days after the collection is received at OMB. (*Note:* The Commission published a regular 60-day notice in the **Federal Register** on August 23, 2011 (76 FR 52662)). It was later determined that the Commission needed to seek emergency processing of this information collection in order to implement the newly created electronic database in mid-October.

OMB Control Number: 3060–0207.

Title: Emergency Alert System (EAS).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; state, local or tribal government; and not-for-profit institutions.

Number of Respondents and Responses: 3,569,028 respondents; 3,569,028 responses.

Estimated Time per Response: .034–20 hours.

Frequency of Response: Reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i) and 606.

Total Annual Burden: 82,008 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission will treat submissions pursuant to 47 CFR 11.61(a)(3) as confidential.

Needs and Uses: On March 10, 2010, OMB approved the collection of information set forth in the Second FNPRM in EB Docket No. 04–296, FCC 09–10. Specifically, OMB authorized the Commission to require entities require to participate in EAS (EAS participants) to gather and submit the following information on the operation of their EAS equipment during a national test of the EAS: (1) Whether they received the alert message during the designated test; (2) whether they retransmitted the alert; and (3) if they were not able to receive and/or transmit the alert, their ''best effort'' diagnostic analysis regarding the cause or causes for such failure. OMB also authorized the Commission to require EAS participants to provide it with the date/time of receipt of the Emergency Action Notification (EAN) message by all stations; and the date/time of receipt of the Emergency Action Termination (EAT) message by all stations; a description of their station identification and level of designation (PEP, LP–1, etc); who they were monitoring at the time of the test, and the make and model of the EAS equipment that they utilized.

In the Third Report and Order in EB Docket No. 04–296, FCC 09–10, the Commission adopted the foregoing rule requirements. In addition, the Commission decided that test data will be presumed confidential and disclosure of the test data will be limited to FEMA, NWS and EOP at the federal level. At the state level, test data will be made available only to state government emergency management agencies that have confidential treatment protections at least equal to Freedom of Information Act (FOIA). The process by which these agencies would receive test data will comport with those used to provide access to the Commission's NORS and DIRS data. We seek a shortened comment period on this revision of the pre-approved collection.

In the Third Report and Order, the Commission also indicated that it would establish a voluntary electronic reporting system that EAS test participants may use as part of their participation in the national EAS test. The Commission noted that using this system, EAS test participants could input the same information that they were already required to file manually via a Web-based interface into a confidential database that the Commission would monitor and assess the test. This information would include identifying information such as station call letters, license identification number, geographic coordinates, EAS assignment (LP, NP, *etc.*), EAS monitoring assignment, as well as a 24/7 emergency contact for EAS participant. The only difference, other than the electronic nature of the filing, would be the timing of the collection. On the day of the test, EAS test participants would be able to input immediate test results, (*e.g.,* was the EAN received and did it pass) into a Web-based interface. Test participants would submit the identifying data prior to the test date, and the remaining data called for by our reporting rules (*e.g.,* the detailed test results) within the 45 day period. The Commission believes that structuring an electronic reporting system in this fashion would allow the participants to populate the database with known information well prior to the test, and thus be able to provide the Commission with actual test data, both close to real-time and within a reasonable period in a minimally burdensome fashion. The Commission also seeks comment on this revision of the pre-approved collection.

Federal Communications Commission.

Avis Mitchell,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23847 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 November 18, 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 Number: 3060–0017.

Title: Application for a Low Power TV, TV Translator, or TV Booster Station License.

Form Number: FCC Form 347.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents: 300.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 450 hours.

Total Annual Cost: $36,000.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The FCC Form 347 is used by licensees/permittees of low power television, TV translator or TV booster stations to apply for a station license. FCC staff uses the data to confirm that the station has been built in the outstanding construction permit. Data from Form 347 is also included in any subsequent license to operate the station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23845 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 11–1527]

Video Programming and Accessibility Advisory Committee; Announcement of Date of Next Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces the next meeting of the Video Programming Accessibility Advisory Committee (''Committee'' or ''VPAAC''). The November meeting will continue to develop recommendations to the Commission regarding video description, and the delivery of video description, access to emergency programming, and the interoperability and user interface of the equipment used to deliver video programming, as required in the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).

DATES: The Committee's next meeting will take place on Tuesday, November 1, 2011, 9 a.m. to 5 p.m. (EST), at the headquarters of the Federal Communications Commission (FCC).

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Commission Meeting Room, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Pam Gregory, Consumer and Governmental Affairs Bureau, 202–418–2498 (voice), 202–418–1169 (TTY), or *Pam.Gregory@fcc.gov* (e-mail); or Alison Neplokh, Media Bureau, 202–418–1083, *Alison.Neplokh@fcc.gov* (e-mail).

SUPPLEMENTARY INFORMATION: On December 7, 2010, in document DA–2320, Chairman Julius Genachowski announced the establishment and appointment of members of the VPAAC, following a nominations period that closed on November 1, 2010. All meetings of the VPAAC shall be open to the public. The purpose of the VPAAC is to develop recommendations on closed captioning of Internet programming previously captioned on television; the compatibility between video programming delivered using Internet protocol and devices capable of receiving and displaying such programming in order to facilitate access to captioning, video description and emergency information; video description and accessible emergency information on television programming delivered using Internet protocol or digital broadcast television; accessible user interfaces on video programming devices; and accessible programming guides and menus. Within six (6) months of its first meeting, the VPAAC submitted recommendations concerning the provision of closed captions for Internet-delivered video programming and the ability of video devices to pass through closed captions contained on Internet-based video programming. By April 8, 2012, the VPAAC shall submit recommendations on the remaining issues listed above. At the November 1, 2011 VPAAC meeting, members will continue to develop recommendations to the Commission regarding video description, and the delivery of video description, access to emergency programming, and the interoperability and user interface of the equipment used to deliver video programming.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Federal Communications Commission.

Karen Peltz Strauss,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2011–24015 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: Pursuant to subsection (e)(4) of the *Privacy Act of 1974,* as amended (''Privacy Act''), 5 U.S.C. 552a, the Federal Communications Commission (FCC or Commission) proposes to add one new, consolidated system of records, FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS).'' FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS)'' will incorporate the information, *e.g.,* personally identifiable information (PII), presently covered by two FCC systems of records, FCC/EB–4, ''Crisis Management Contacts,'' and FCC/OMD–11, ''Continuity of Operations Plan (COOP),'' and also add new and/or updated information that pertains to the mission and activities of the FCC's Public Safety and Homeland Security Bureau (PSHSB). Upon approval of FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS),'' the Commission will cancel FCC/EB–4 and FCC/OMD–11. The purposes for adding this new system of records, FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS),'' are for PSHSB to use the records in this system of records to allow the FCC to use:

The information in the Emergency Contacts database to coordinate crisis response activities, *etc.;*

The information in the Continuity of Operations Plan (COOP) Contacts database to contact FCC employees and contractors regarding COOP matters, *etc.;* and

An automated telephone and e-mail system to contact its Emergency Contacts and COOP Contacts, *etc.*

The new system of records will consolidate the systems of records in these two separate internal databases that the Bureau currently uses so that all the PII are now housed in a single PSHSB database for the PSHSB's

emergency operations and related activities.

DATES: In accordance with subsections (e)(4) and (e)(11) of the Privacy Act, any interested person may submit written comments concerning the alteration of this system of records on or before October 19, 2011. The Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act to review the system of records, and Congress may submit comments on or before October 31, 2011. The proposed new system of records will become effective on October 31, 2011 unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary. As required by 5 U.S.C. 552a(r) of the Privacy Act, the FCC is submitting reports on this proposed new system to OMB and Congress.

ADDRESSES: Address comments to Leslie F. Smith, Privacy Analyst, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554, (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION: Contact Leslie F. Smith, Performance Evaluation and Records Management (PERM), Room 1–C216, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION: As required by the *Privacy Act of 1974,* as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of this proposed new system of records maintained by the FCC. The FCC previously gave complete notice of the two systems of records, FCC/EB–4, ''Crisis Management Contacts'' and FCC/OMD–11, ''Continuity of Operations Plan (COOP),'' which it intends to cancel upon approval of FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS),'' as referenced under this Notice by publication in the **Federal Register** on April 5, 2006 (71 FR 17234, 17239 and 17254 respectively). This notice is a summary of the more detailed information about the proposed new system of records, which may be viewed at the location given above in the **ADDRESSES** section. The purposes for adding this new system of records, FCC/PSHSB–1, ''FCC Emergency and Continuity Contacts System (ECCS),'' are for the FCC's Public Safety and Homeland Security Bureau (PSHSB) to use the records in FCC/PSHSB–1 to allow the FCC to use:

1. The information in the Emergency Contacts database to coordinate crisis response activities, *etc.*;

2. The information in the COOP Contacts database to contact FCC employees and contractors regarding COOP matters, *etc.*; and

3. An automated telephone and e-mail system to contact its Emergency Contacts and COOP Contacts, *etc.*

The new system of records will consolidate the two separate internal systems of records that PSHSB currently uses so that all the PII data are now housed in a single PSHSB database for the PSHSB's emergency operations and related activities.

This notice meets the requirement documenting the change to the systems of records that the FCC maintains, and provides the public, OMB, and Congress with an opportunity to comment.

FCC/PSHSB–1

SYSTEM NAME:

FCC Emergency and Continuity Contacts System (ECCS).

SECURITY CLASSIFICATION:

The Security Operations Center (SOC) has not assigned a security classification to the FCC EPS; however, information in this system may be designated as ''Non Public,'' or ''For Internal Use Only,'' Or ''For Official Use Only.''

SYSTEM LOCATION:

Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in the FCC EPS include:

1. Emergency Contacts: FCC employees, Federal Government contacts, State, Tribal, Territorial, Local Government and private sector contacts along with institutions, organizations, and individuals with crisis management and emergency preparedness functions, *etc.*

2. Continuity of Operations (COOP) Contacts: Bureau and Office Emergency Response Group (ERG) and Devolution Emergency Response Group (DERG) members (employees and contractors) and FCC and Bureau and Office lines of succession.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the FCC EPS include:

1. Emergency Contacts: Individual and/or business name(s), position title, business telephone number(s), business cell phone number(s), business satellite phone number(s), business pager number(s), business facsimile number(s), business address(es), business e-mail address(es), home telephone number(s), personal cell phone number(s), personal pager number (s), personal facsimile number(s), and personal e-mail address(es), *etc.;* and

2. COOP Contacts: FCC members, FCC employee's and contractor's name(s), position title, security clearance information, line of succession information, work and personal telephone number(s), work and personal facsimile number(s), work and personal cell phone number(s), satellite telephone number(s), FCC Government Emergency Telecommunications System (GETS) and Wireless Priority System (WPS) information, satellite telephone number(s), Government passport numbers, work and personal pager number(s), and work and personal e-mail address(es), *etc.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12472, *Assignment of National Security and Emergency Preparedness Telecommunications Functions,* April 3, 1984, *as amended* February 28, 2003 and June 26, 2006; Presidential Decision Directive 67, *Enduring Constitutional Government and Continuity of Government Operations,* October 21, 1998; Homeland Security Act of 2002 (6 U.S.C. § 101 *et seq.*), November 25, 2002; National Security Presidential Directive 51/Homeland Security Presidential Directive 20, *National Continuity Policy,* May 9, 2007; National Communications System Directive 3–10, *Minimum Requirements for Continuity Communications Capabilities,* July 25, 2007; *National Continuity Policy Implementation Plan,* Homeland Security Council, August 2007; Federal Continuity Directive 1, *Federal Executive Branch National Continuity Program and Requirements,* February 2008; Federal Continuity Directive 2, *Federal Executive Branch Mission Essential Function and Primary Mission Essential Function Identification and Submission Process,* February 2008.

PURPOSE(S):

The FCC uses the records in the FCC ECCS:

1. Emergency Contacts: To allow the FCC to coordinate crisis response activities, *etc.*;

2. COOP Contacts: To allow the FCC to contact FCC employees and

contractors regarding COOP matters, *etc.;* and

3. To allow the FCC to use an automated telephone and e-mail system to contact its Emergency Contacts and COOP Contacts, *etc.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals in this system of records may routinely be disclosed under the following conditions:

1. Emergency Response—A record of an individual in this system of records may be disclosed to emergency medical personnel, *i.e.,* doctors, nurses, and/or paramedics, to law enforcement officials or other first responders and emergency officials in case of a medical or other emergency involving the FCC employee or contractor without the subsequent notification to the individual identified in 5 U.S.C. 552a(b)(8);

2. Adjudication and Litigation—Where by careful review, the agency determines that the records are both relevant and necessary to litigation and the use of such records is deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records, these records may be used by a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in her or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation;

3. Law enforcement and Investigation—Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be shared with appropriate Federal, State, or local authorities either for purposes of obtaining additional information relevant to a FCC decision or for referring the record for investigation, enforcement, or prosecution by another agency;

4. Congressional Inquiries—When requested by a Congressional office in response to a written inquiry by an individual made to the Congressional office for the individual's own records;

5. Government-wide Program Management and Oversight—When requested by the National Archives and Records Administration (NARA) and/or the General Services Administration (GSA) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906; when the U.S. Department of Justice (DOJ) is contacted in order to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act; or when the Office of Management and Budget (OMB) is contacted in order to obtain that office's advice regarding obligations under the Privacy Act;

6. Employment, Clearances, Licensing, Contract, Grant or other Benefits Decisions by the agency—A disclosure may be made to Federal, State, local or foreign agency maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the retention of an employee or other personnel action (other than hiring), the retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit;

7. Labor Relations—A record from this system may be disclosed to officials of labor organizations recognized under 5 U.S.C. chapter 71 upon receipt of a formal request and in accord with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

8. Breach Notification—A record from this system may be disclosed to appropriate agencies, entities, and persons when (1) the Commission suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Commission or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

9. First Responders—A record from this system of records may be disclosed to law enforcement officials, Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), Department of Defense (DOD), National Telecommunications and Information Administration (NTIA), White House Communications Agency, other Federal agencies, and state and local emergency response officials, *e.g.,* fire, safety, and rescue personnel, *etc.,* and medical personnel, *e.g.,* doctors, nurses, and paramedics, *etc.,* in case of an emergency situation at FCC facilities, without the subsequent notification to the individual identified in 5 U.S.C. 552a(b)(8); and

10. Contracted Third Parties—A record of this system may be disclosed to external contracted parties throughout the United States for required maintenance, data input, and/or extraction requirements, testing, and activation of an automated telephone and e-mail system.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the FCC ECCS consists of electronic data, files, and records, which are housed in the FCC's computer network databases, and paper documents, files, and records, which are stored in file cabinets in the PSHSB office suite.

RETRIEVABILITY:

Information in the Emergency Contacts and the COOP Contacts databases is retrieved by searching any field in the respective database;

SAFEGUARDS:

1. Emergency Contacts: The paper records, documents, and files are stored in filing cabinets in the PSHSB office suite, which are locked when not in use. The electronic records, files, and data are maintained in the FCC's network computer databases and by a third-party vendor.

2. COOP Contacts: The paper records, documents, and files are stored in filing cabinets in the PSHSB office suite, which are locked when not in use. The electronic records, files, and data are maintained in the FCC's network computer databases.

The FCC's computer networks that house the Emergency Contacts database and the COOP Contact database are protected by the FCC's security protocols, which include controlled access, passwords, and other security features. Information resident on the Emergency Contacts and COOP Contacts database servers is backed-up per FCC Office of Managing Director protocols.

The information in the Emergency Contacts database and COOP Contacts database is only available for review and updating by the employees and contractors (whose information is maintained in the databases), Bureau/Office administrative personnel, and FCC management on a need-to- know basis. Authorized PSHSB supervisors and staff also have access to the paper documents, files, and records that are stored in the filing cabinets located in the PSHSB office suite and to the electronic records, files, and data that are housed in the FCC's computer network databases and in those of a third-party vendor. The supervisors, staff, and contractors in the FCC's Information Technology Center's (ITC), who manage the FCC's computer network databases have access to the electronic information. Other employees and contractors are only granted access to the information in the filing cabinets and electronic databases on a ''need-to-know'' basis.

RETENTION AND DISPOSAL:

1. Emergency Contacts: The paper files and electronic data in this system are retained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule 1, which may be viewed at *http://www.archives.gov/records-mgmt/ardor/grs01.html.*

2. COOP Contacts: The retention schedule for this system's electronic records has not yet been determined. No records will be destroyed until a disposal schedule has been approved by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Address inquiries to Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Address inquiries to Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554.

RECORD ACCESS PROCEDURES:

Address inquiries to Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554.

CONTESTING RECORD PROCEDURES:

Address inquiries to Public Safety and Homeland Security Bureau (PSHSB), Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554.

RECORD SOURCE CATEGORIES:

1. Emergency Contacts: The sources for the information in this system include FCC employees, Federal Government contacts, State, Tribal, Territorial, Local Government and private sector contacts along with institutions, organizations, and individuals with crisis management and emergency preparedness functions, *etc.;* and

2. COOP Contacts: The sources for information in this system include FCC employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–23929 Filed 9–16–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final guidelines.

SUMMARY: The FDIC is adopting guidelines that it will use to determine how adjustments may be made to an institution's total score when calculating the deposit insurance assessment rates of large and highly complex insured institutions. Total scores are determined according to the Final Rule on Assessments and Large Bank Pricing that was approved by the FDIC Board on February 7, 2011 (76 FR 10672 (Feb. 25, 2011)).

FOR FURTHER INFORMATION CONTACT: Patrick Mitchell, Acting Chief, Large Bank Pricing Section, Division of Insurance and Research, (202) 898–3943; and Christopher Bellotto, Counsel, Legal Division, (202) 898–3801, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Dates

These guidelines supersede the assessment rate adjustment guidelines published by the FDIC on May 15, 2007 (the 2007 Guidelines).[1]

II. Background

On February 7, 2011, the FDIC Board amended its assessment regulations by, among other things, adopting a new methodology for determining assessment rates for large and highly complex institutions (the Amended Assessment Regulations).[2] The Amended Assessment Regulations eliminated risk categories and combined CAMELS ratings and forward-looking financial measures into one of two scorecards, one for highly-complex institutions and another for all other large institutions.[3] Each of the two scorecards produces two scores—a performance score and a loss severity score—that are combined into a total score.[4]

Tables 1 and 2 show the scorecards for large and highly complex institutions, respectively.

[1] Assessment Rate Adjustment Guidelines for Large Institutions and Insured Foreign Branches in Risk Category I, 72 FR 27122 (May 14, 2007).

[2] Assessments, Large Bank Pricing, 76 FR 10672 (Feb. 25, 2011) (codified at 12 CFR 327.9–10).

[3] A large institution is defined as an insured depository institution: (1) That had assets of $10 billion or more as of December 31, 2006 (unless, by reporting assets of less than $10 billion for four consecutive quarters since then, it has become a small institution); or (2) that had assets of less than $10 billion as of December 31, 2006, but has since had $10 billion or more in total assets for at least four consecutive quarters, whether or not the institution is new. A ''highly complex institution'' is defined as: (1) An insured depository institution (excluding a credit card bank) that has had $50 billion or more in total assets for at least four consecutive quarters and that either is controlled by a U.S. parent holding company that has had $500 billion or more in total assets for four consecutive quarters, or is controlled by one or more intermediate U.S. parent holding companies that are controlled by a U.S. holding company that has had $500 billion or more in assets for four consecutive quarters, and (2) a processing bank or trust company. A processing bank or trust company is an insured depository institution whose last three years' non-lending interest income, fiduciary revenues, and investment banking fees, combined, exceed 50 percent of total revenues (and its last three years fiduciary revenues are non-zero), whose total fiduciary assets total $500 billion or more and whose total assets for at least four consecutive quarters have been $10 billion or more.

[4] In the context of large institution insurance pricing, the performance score measures a large institution's financial performance and its ability to withstand stress. The loss severity score refers to the relative loss that an institution poses to the Deposit Insurance Fund in the event of a failure.

TABLE 1—SCORECARD FOR LARGE INSTITUTIONS

Scorecard measures and components	Measure weights (percent)	Component weights (percent)
P Performance Score		
P.1 *Weighted Average CAMELS Rating*	100	*30*
P.2 *Ability to Withstand Asset-Related Stress*		*50*
Tier 1 Leverage Ratio	10	
Concentration Measure	35	
Core Earnings/Average Quarter-End Total Assets*	20	
Credit Quality Measure	35	
P.3 *Ability to Withstand Funding-Related Stress*		*20*
Core Deposits/Total Liabilities	60	
Balance Sheet Liquidity Ratio	40	
L Loss Severity Score		
L.1 *Loss Severity Measure*		*100*

* Average of five quarter-end total assets (most recent and four prior quarters).

TABLE 2—SCORECARD FOR HIGHLY COMPLEX INSTITUTIONS

Measures and components	Measure weights (percent)	Component weights (percent)
P Performance Score		
P.1 *Weighted Average CAMELS Rating*	100	*30*
P.2 *Ability to Withstand Asset-Related Stress*		*50*
Tier 1 Leverage Ratio	10	
Concentration Measure	35	
Core Earnings/Average Quarter-End Total Assets	20	
Credit Quality Measure and Market Risk Measure	35	
P.3 *Ability to Withstand Funding-Related Stress*		*20*
Core Deposits/Total Liabilities	50	
Balance Sheet Liquidity Ratio	30	
Average Short-Term Funding/Average Total Assets	20	
L Loss Severity Score		
L.1 *Loss Severity*		*100*

* Average of five quarter-end total assets (most recent and four prior quarters).

In most cases, the total score produced by an institution's scorecard should correctly reflect the institution's overall risk relative to other large institutions; however, the FDIC believes it is important that it have the ability to consider idiosyncratic or other relevant risk factors not reflected in the scorecards. The Amended Assessment Regulations, therefore, allow the FDIC to make a limited adjustment to an institution's total score up or down by no more than 15 points (the large bank adjustment). The resulting score is then converted to an initial base assessment rate, which, after application of other possible adjustments, results in the institution's total assessment rate.[5] The total assessment rate is multiplied by the institution's assessment base to calculate the amount of its assessment obligation. Adjustments are made to ensure that the total score produced by an institution's scorecard appropriately reflects the institution's overall risk relative to other large institutions.

The FDIC promulgated regulations allowing for the adjustment of large institutions' quarterly assessment rates in 2006.[6] The FDIC set forth the procedures for these adjustments in guidelines that were published in 2007 (2007 Guidelines). The 2007 Guidelines were designed to ensure that the adjustment process was fair and transparent and that any decision to make an adjustment was well supported. The FDIC has exercised its adjustment authority when warranted since that time.

Following adoption of the Amended Assessment Regulations in February 2011, the FDIC proposed new guidelines that reflect the methodology it now uses to determine assessment rates for large and highly complex institutions. The FDIC sought comment on all aspects of the proposed guidelines.[7] The FDIC received eight comments related to the guidelines, which are described below in the relevant portion of the guidelines.

[5] Adjustments to the initial base assessment rate may include an unsecured debt adjustment, depository institution debt adjustment, and a brokered deposit adjustment.

[6] 71 FR 69282 (Nov. 30, 2006).

[7] 76 FR 21256 (April 15, 2011). The Amended Assessment Regulations provided that the FDIC would not make any new large bank adjustments until revised guidelines were published for comment and approved by the FDIC's Board of Directors. Although the FDIC chose in this instance to publish the proposed guidelines and solicit comment, notice and comment are not required and need not be employed to make future changes to the guidelines.

In addition to comments on the Guidelines, the FDIC also received a number of comments related to the scorecard methodology and measures used in the scorecard. The FDIC, however, previously provided two opportunities to comment on the scorecard methodology and all measures through the publication of two notices of proposed rulemaking on the large bank pricing system.[8] The FDIC received a large number of comments on these issues in response to the two notices of proposed rulemaking and carefully considered them before finalizing the Amended Assessment Regulations in February 2011. Since the Amended Assessment Regulations are final, and the FDIC has not proposed changing them, suggestions or comments related to the scorecard methodology or the measures used within the scorecard have not been considered in finalizing these adjustment guidelines. Rather, the FDIC has focused on comments related to the guidelines and how the guidelines will apply when making a large bank adjustment.

III. Overview of the Large Bank Adjustment Guidelines

The following general guidelines will govern the large bank adjustment process.

Analytical Guidelines

- The FDIC will focus on identifying institutions for which a combination of risk measures and other information suggests either materially higher or lower risk than the total scores indicate. The FDIC will consider all available material information relating to an institution's likelihood of failure or loss severity in the event of failure.
- The FDIC will primarily consider two types of information in determining whether to make a large bank adjustment: (a) A scorecard ratio or measure that exceeds the maximum cutoff value for a ratio or measure or is less than the minimum cutoff value for a ratio or measure, along with the degree to which the ratio or measure differs from the cutoff value (scorecard measure outliers); and (b) information not directly captured in the scorecard, including complementary quantitative risk measures and qualitative risk considerations.
- If an institution has one or more scorecard measure outliers, the FDIC will conduct further analysis to determine whether underlying scorecard ratios are materially higher or lower than the established cutoffs for the measure and whether other mitigating or supporting information exists.
- The FDIC will use complementary quantitative risk measures to determine whether a scorecard measure is an appropriate measure for a particular institution.
- When qualitative risk considerations materially affect the FDIC's view of an institution's probability of failure or loss given failure, these considerations may be the primary factor supporting the adjustment. Qualitative risk considerations include, but are not limited to, underwriting practices related to material concentrations, risk management practices, strategic risk, stress test results, interest rate risk exposure, and factors affecting loss severity.
- Specific risk measures may vary in importance for different institutions. In some cases, a single risk factor or indicator may support an adjustment if the factor suggests a significantly higher or lower likelihood of failure, or loss given failure, than the total score reflects.
- To the extent possible when comparing risk measures, the FDIC will consider the performance of similar institutions, taking into account that variations in risk measures exist among institutions with substantially different business models.
- Adjustments to an institution's total score will be made only if the comprehensive analysis of an institution's risk generally based on the two types of information listed above, and the institution's relative risk ranking warrant a material adjustment of the institution's score. For purposes of these guidelines, a material adjustment is an adjustment of five points or more to an institution's total score.

Procedural Guidelines

The processes for communicating to affected institutions and implementing a large bank adjustment remain largely unchanged from the 2007 Guidelines, except that the revised guidelines provide for an adjustment made as a result of a request by the institution (an institution-initiated adjustment).

- The FDIC will consult with an institution's primary federal regulator and appropriate state banking supervisor before making any decision to adjust an institution's total score (and before removing a previously implemented adjustment).
- The FDIC will give institutions advance notice of any decision to make an upward adjustment, or to remove a previously implemented downward adjustment. The notice will include the reasons for the proposed adjustment or removal, the size of the proposed adjustment or removal, specify when the adjustment or removal will take effect, and provide institutions with up to 60 days to respond.
- The FDIC will re-evaluate the need for an adjustment to an institution's total score on a quarterly basis.
- An institution may make a written request to the FDIC for an adjustment to its total score no later than 35 days following the end of the quarter for which the institution is requesting the adjustment. Such a request must be supported with evidence of a material risk or risk-mitigating factor that is not adequately captured or considered in the scorecard. For example, for the quarter ending March 31, 2012, the request should be received by the FDIC no later than May 5, 2012. Institutions may request an adjustment at any time; however, those well-supported requests received after the deadline may not be considered until the following quarter and the FDIC may require the institution to update the supporting evidence at that time. Further details regarding an institution-initiated request for adjustment are provided below.
- An institution may request review of or appeal an upward adjustment, the magnitude of an upward adjustment, removal of a previously implemented downward adjustment or an increase in a previously implemented upward adjustment pursuant to 12 CFR 327.4(c). An institution may similarly request review of or appeal a decision not to apply an adjustment following a request by the institution for an adjustment.

IV. The Large Bank Adjustment Process

A. Identifying the Need for an Adjustment

The FDIC will analyze the results of the large bank methodology under the Amended Assessment Regulations and determine the relative risk ranking of institutions prior to implementing any large bank adjustments. When an institution's total score is consistent with the total score of other institutions with similar risk profiles, the resulting assessment rate of the institutions should be comparable and a large bank adjustment should be unnecessary. When an institution's total score is not consistent with the total scores of other

[8] 75 FR 23516 (May 3, 2011); 75 FR 72612 (Nov. 24, 2010).

institutions with similar risk profiles, the FDIC will consider an adjustment. The FDIC only intends to pursue material adjustments (an adjustment of at least five points) to an institution's total score, which should result in only a limited number of adjustments on a quarterly basis.

Given the implementation of a new assessment system and the collection of new data items, the FDIC does not intend to use its ability to adjust scores precipitously. The FDIC expects to take some time analyzing all institutions' unadjusted scores, the reporting of new data items, and the resulting risk ranking of institutions before making any adjustments. While the FDIC is not precluded from making a large bank adjustment immediately following adoption of these guidelines, the FDIC expects that few, if any, adjustments will be made at that time.

The FDIC will evaluate scorecard results each quarter to identify institutions with a score that is materially too high or too low when considered in light of risks or risk-mitigating factors that are inadequately captured by the institution's scorecard. Examples of the types of risks and risk-mitigating factors include considerations for accounting rule changes such as FAS 166/167, credit underwriting and credit administration practices, collateral and other risk mitigants, including the materiality of guarantees and franchise value.

The FDIC received several comments regarding risk mitigants considered in the large bank adjustment process. One commenter agreed that the FDIC should retain the ability to adjust an institution's total score based upon risks that are not adequately or fully captured in the scorecard, while another commenter suggested that loss mitigants should be directly factored into the pricing model. Two commenters stated that more detail should be provided regarding consideration of mitigants and the potential impact such mitigants may have on the large bank adjustment process. These same two commenters noted that any adjustment methodology regarding higher risk concentrations should include consideration of an institution's historical risk and loss data. One commenter stated that the FDIC should consider offsetting outliers as a mitigant when considering whether an adjustment is warranted for a different outlier.

Loss mitigants and their effect on individual institutions tend to be idiosyncratic. While the FDIC agrees that it would be ideal for all risk mitigants to be factored into the scorecard model for deposit insurance assessment purposes, it is impossible in practice to include all potential risk mitigants, particularly mitigants of a qualitative nature, into a quantitative scoring model. For similar reasons, the FDIC is unable to provide precise details of how mitigants will be specifically considered in the adjustment process. The FDIC will consider each institution's risk profile, including consideration of loss mitigants, offsetting outliers, and historical data, when determining the institution's pricing and relative risk ranking among the universe of large institutions. The FDIC believes, however, that historical loss or risk data may be insufficient in isolation to warrant an adjustment given the forward looking nature of the scorecard.

One commenter recommended that the FDIC use the large bank adjustment process to eliminate the effect of FAS 166/167 in the growth-adjusted portfolio concentration measure. As noted in the Amended Assessments Regulation, the FDIC will consider exclusion of the effect of FAS 166/167 through the adjustment process where the FDIC receives sufficient information to make an adjustment and the possible adjustment would have a material effect on an institution's total score.

In addition to considering an institution's relative risk ranking among all large institutions, the FDIC will consider how an institution's total score compares to the total scores of institutions in a peer group. This comparison will allow the FDIC to account for variations in risk measures that exists among institutions with differing business models. For purposes of the comparison, the FDIC will, where appropriate, assign an institution to a peer group. The peer groups are:

Processing Banks and Trust Companies: Large institutions whose last three years' non-lending interest income, fiduciary revenues, and investment banking fees, combined, exceed 50 percent of total revenues (and its last three years' fiduciary revenues are non-zero), and whose total fiduciary assets total $500 billion or more.

Residential Mortgage Lenders: Large institutions not described in the peer group above whose residential mortgage loans, which include home equity lines of credit plus residential mortgage backed securities, exceed 50 percent of total assets.

Non-diversified Regional Institutions: Large institutions not described in a peer group above if: (1) Credit card plus securitized receivables exceed the sum of 50 percent of assets plus securitized receivables; or (2) the sum of residential mortgage loans, credit card loans, and other loans to individuals exceeds 50 percent of assets.

Large Diversified Institutions: Large institutions with over $150 billion in assets not described in a peer group above.

Diversified Regional Institutions: Large institutions with less than $150 billion in assets not described in a peer group above.

The FDIC received a comment suggesting that the definition of Residential Mortgage Lenders as a peer group should clarify whether the definition is limited to residential mortgages and whether home-equity lines of credit are included. The FDIC agrees. The definition of has been clarified to include residential mortgages, including home-equity lines of credit and residential mortgage-backed securities.

B. Institution-Initiated Request for a Large Bank Adjustment

An institution may request a large bank adjustment by submitting a written request to the FDIC no later than 35 days following the end of the quarter for which the institution is requesting the adjustment. Such a request must be supported with evidence of a material risk or risk-mitigating factor that is not adequately captured or considered in the scorecard.[9] Similar to FDIC-initiated adjustments, an institution-initiated request for adjustment will be considered only if it is supported by evidence of a material risk or risk-mitigating factor that is not adequately accounted for in the scorecard and results in a material change to the total score. Furthermore, the overall risk profile must be materially higher or lower than that produced by the scorecard. The FDIC will consider these requests as part of its ongoing effort to identify and adjust scores so that institutions with similar risk profiles receive similar total scores.

An institution-initiated request for adjustment that is received by the FDIC later than 35 days after the end of the quarter for which the institution is requesting the adjustment may not provide the FDIC with sufficient time to appropriately assess and respond to the request for adjustment; therefore, the FDIC may not be able to consider adjusting an institution's assessment for that quarter if the request is received after this time. Although institutions may request an adjustment at any time, those well-supported requests received

[9] A request for adjustment with supporting evidence should be addressed to Director, Division of Insurance and Research, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

after the deadline may not be considered until the following quarter. In conjunction with the next quarter's consideration, the FDIC may require that the institution update the information supporting the institution-initiated request. The FDIC's determination that an adjustment request was received after the deadline and there was insufficient time to appropriately respond to it may be challenged by the institution in a request for review pursuant to the assessment appeals process (12 CFR 327.4(c)).

For example, a request for adjustment of an institution's third quarter total score with supporting evidence must be received no later than November 4 by the FDIC's Director of the Division of Insurance and Research in Washington, DC. If the request for adjustment is received after November 4, it may not be considered by the FDIC until the fourth quarter and the FDIC may request updated information at that time. Pursuant to 12 CFR 327.4(c), the institution may file a request for review challenging the FDIC's determination to consider the request in the fourth quarter or file a request for review of its third quarter assessment rate once it receives its invoice for the third quarter assessment. An institution that files a request for adjustment more than 35 days after the end of the quarter for which it is requesting an adjustment is not precluded from requesting adjustments for future quarters.

The FDIC received three positive comments regarding the FDIC's willingness to explicitly permit written requests from institutions for a large bank adjustment. One commenter suggested that the FDIC provide the number of challenges to deposit insurance assessment adjustments and rulings for or against such challenges in its quarterly publication of statistics. Another commenter recommended that the FDIC provide a prompt response for any downward adjustment request. Finally, one commenter requested clarification about whether the national or regional office of the FDIC would recommend an adjustment to a large institution's total score, stating that the national office is better suited to consider the entire banking industry when determining outliers for pricing purposes.

As noted in the Amended Assessment Regulations, the FDIC will publish aggregate statistics on adjustments each quarter. The FDIC's Assessment Appeals Committee publishes all appeals and the results of such appeals. In addition, the FDIC will respond promptly to all well-supported requests for a downward large bank adjustment. As noted previously, a well-supported request (the requests must also be material, as defined above) should be received by the FDIC within 35 days after the end of the quarter for which the adjustment is being requested. Finally, the FDIC will ensure that appropriate staff is involved in the decision-making process relevant to large bank adjustments.

C. Determining the Adjustment Amount

Once the FDIC determines that an adjustment may be warranted, the FDIC will determine the adjustment necessary to bring an institution's total score into better alignment with those of other institutions that pose similar levels of risk. The FDIC will initiate an adjustment or consider an institution-initiated request for adjustment only when a combination of risk measures and other information suggest either materially higher or lower risk than an institution's total score indicates. The FDIC expects that the adjustment process will be needed for only a relatively small number of institutions. If the size of the adjustment required to align an institution's total score with institutions of similar risk is not material, no adjustment will be made. The FDIC will only initiate adjustments either upward or downward that warrant an adjustment of 5 points or more and adjustments will generally only be made in 5, 10, or 15 point increments.

One commenter stated that the proper size of an adjustment would be subject to differences of opinion. The FDIC agrees that there is subjectivity involved in the large bank adjustment process; however, the FDIC expects that differences of opinion on the appropriate size of the adjustment should be limited. The FDIC will only initiate adjustments or consider reviews for adjustment if the comprehensive analysis of the institution's risk and the institution's relative risk ranking warrant a material adjustment of the institution's total score. To reduce the potential subjectivity regarding the precision of the size of an adjustment, the FDIC has determined that any adjustment will be limited to a minimum of 5 points and generally limited to 5, 10, or 15 point increments. The FDIC believes a minimum 5 point adjustment provides a threshold that clarifies how the FDIC will determine whether an adjustment is material. In addition, the discrete adjustment levels should reduce potential disagreements regarding the appropriate size of any adjustment applied.

D. Further Analysis and Consultation With Primary Federal Regulator

As under the 2007 Guidelines, the FDIC will consult with an institution's primary federal regulator and appropriate state banking supervisor before making any decision to adjust an institution's total score (and before removing a previously implemented adjustment).

One commenter recommended that any adjustment to an institution's total score should require concurrence by an institution's primary federal regulator, rather than simply consultation. The FDIC disagrees. Large bank adjustments are made only after consideration of the institution's relative risk ranking among the entire large bank universe. Such consideration requires knowledge and data of the total scores for every institution in the large bank universe, which is information that other primary federal regulators do not have. Furthermore, only the FDIC has the legal authority to assess institutions for deposit insurance. Therefore, the FDIC will continue to consult with an institution's primary federal regulator and consider the primary federal regulator's comments prior to making a large bank adjustment, but, ultimately, the decision concerning any adjustment will be made by the FDIC. This process is consistent with the procedure used in the 2007 Guidelines.

E. Advance Notice

To give an institution an opportunity to respond, the FDIC will give advance notice to an institution when proposing to make an upward adjustment to the institution's total score.[10] Consistent with the 2007 Guidelines, the timing of the notice will correspond approximately to the invoice date for an assessment period. For example, an institution will be notified of a proposed upward adjustment to its assessment rates for the period April 1 through June 30 by approximately June 15, which is the invoice date for the January 1 through March 31 assessment period.[11]

Decisions to lower an institution's total score will not be communicated to institutions in advance. Rather, as under the 2007 Guidelines, downward adjustments will be reflected in the invoices for a given assessment period along with the reasons for the adjustment.

[10] The institution will also be given advance notice when the FDIC determines to eliminate any downward adjustment to an institution's total score.

[11] The invoice covering the assessment period January 1 through March 31 in this example would not reflect the upward adjustment.

F. Institution's Opportunity To Respond

An institution that has been notified of the FDIC's intent to apply an upward adjustment will have 60 days to respond to the notice. Before implementing an upward adjustment, the FDIC will review the institution's response, along with any subsequent changes to supervisory ratings, scorecard measures, or other relevant risk factors. Similar to the 2007 Guidelines, the FDIC will notify the institution of its decision to proceed or not to proceed with the upward adjustment along with the invoice for the quarter in which the adjustment will become effective.

Extending the example above, if the FDIC notified an institution of a proposed upward adjustment on June 15, the institution would have 60 days from that date to respond to the notification. If, after evaluating the institution's response and updated information for the quarterly assessment period ending June 30, the FDIC decided to proceed with the adjustment, the FDIC would communicate this decision to the institution by approximately September 15, which is the invoice date for the April 1 through June 30 assessment period. In this case, the adjusted assessment rate would be reflected in the September 15 invoice.

The time frames and example above also apply to a decision by the FDIC to remove a previously implemented downward adjustment as well as a decision to increase a previously implemented upward adjustment.

G. Duration of the Adjustment

Consistent with the 2007 Guidelines, the large bank adjustment will remain in effect for subsequent assessment periods until the FDIC determines either that the adjustment is no longer warranted or that the magnitude of the adjustment needs to be reduced or increased (subject to the 15 point limitation and the requirement for further advance notification).[12]

H. Requests for Review and Appeals

In making a decision regarding an adjustment, the FDIC will consider all material information available to it, including any information provided by an institution, but ultimately, all decisions concerning adjustments will be made by the FDIC. An institution may request review of or appeal an upward adjustment, the magnitude of an upward adjustment, removal of a previously implemented downward adjustment or an increase in a previously implemented upward adjustment pursuant to 12 CFR 327.4(c). An institution may similarly request review of or appeal a decision not to apply an adjustment following an institution-initiated request for an adjustment.

V. Additional Information on the Adjustment Process, Including Examples

As discussed previously, the FDIC will primarily consider two types of information in determining whether to make a large bank adjustment: scorecard measure outliers and information not directly captured in the scorecard, including complementary quantitative risk measures and qualitative risk considerations.

A. Scorecard Measure Outliers

In order to convert each scorecard ratio into a score that ranges between 0 and 100, the Amended Assessment Regulations use minimum and maximum cutoff values that generally correspond to the 10th and 90th percentile values for each ratio based on data for the 2000 to 2009 period. All values less than the 10th percentile or all values greater than the 90th percentile are assigned the same score. This process enables the FDIC to compare different ratios in a standardized way and assign statistically-based weights; however, the process may mask significant differences in risk among institutions with the minimum or maximum score. The FDIC believes that an institution with one or more scorecard ratios well in excess of the maximum cutoffs or well below the minimum cutoffs may pose significantly greater or lower risk to the deposit insurance fund than its score suggests.

The example below illustrates the analytical process the FDIC will follow in determining to propose a downward adjustment based on scorecard measure outliers. The example is merely illustrative. As shown in Chart 1, Bank A has a total score of 45 and two scorecard measures with a score of 0 (indicating lower risk).

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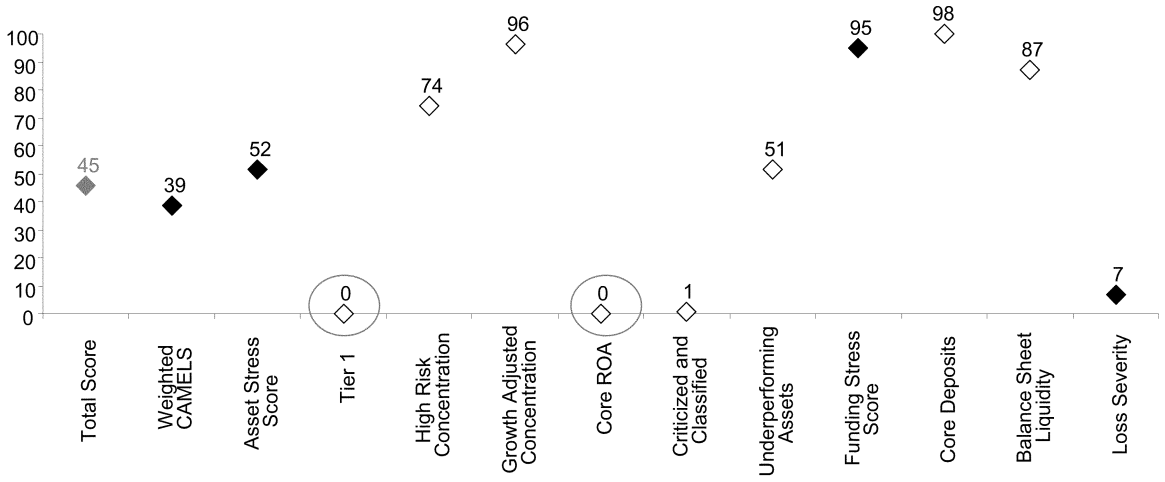
[12] As noted in the Amended Assessments Regulation, an institution's assessment rate may increase without notice if the institution's supervisory, agency ratings, or financial ratios deteriorate.

Chart 1

Total and Component Scores for Bank A



Note: Solid diamonds denote either the total score or scorecard component scores; clear diamonds denote scores for the scorecard measures that make up the components.

Since at least one of the scorecard measures has a score of 0, the FDIC would further review whether the ratios underlying these measures materially differ from the cutoff value associated with a score of 0. Materiality will generally be determined by the amount that the underlying ratio differs from the relevant cutoff as a percentage of the overall scoring range (the maximum cutoff minus the minimum cutoff). Table 3 shows that Bank A's Tier 1 Leverage ratio (17 percent) far exceeds the cutoff value associated with a score of 0 (13 percent), with the difference representing 57 percent of the associated scoring range. Based on this additional information and assuming no other mitigating factors, the FDIC may conclude that Bank A's loss absorbing capacity is not fully recognized, particularly when compared with other institutions receiving the same overall score. By contrast, Bank A's Core Return on Assets (ROA) ratio is much closer to its cutoff values, suggesting that an adjustment based on consideration of this factor may not be justified.

TABLE 3—OUTLIER ANALYSIS FOR BANK A

Scorecard measure	Score	Cutoffs (%)		Value (%)	Outlier amount (value minus cutoff) as percentage of the scoring range
		Minimum	Maximum		
Core ROA	0	0	2	2.08	4
Tier 1 Capital Ratio	*0*	*6*	*13*	*17*	*57*

Before initiating an adjustment, however, the FDIC would consider whether Bank A had significant risks that were not captured in the scorecard. If no information on such risks existed, the FDIC would initiate a downward adjustment to Bank A's total score to the extent that the FDIC determined that such a downward adjustment warranted at least a 5 point adjustment.

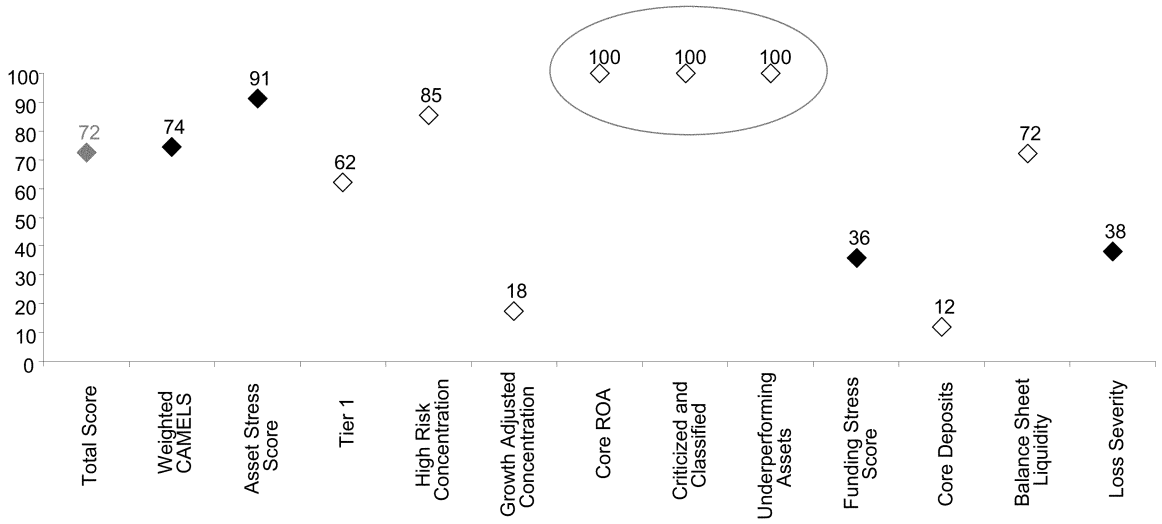
The amount of the adjustment will be the amount needed to make the total score consistent with those of banks of comparable overall risk, with particular emphasis on institutions of the same peer group (*e.g.,* diversified regional institutions), as described above. Typically, however, adjustments supported by only one extreme outlier value will be less than the FDIC's potential adjustment authority of 15 points. In the case of multiple outlier values, inconsistent outlier values, or outlier values that are exceptionally beyond the scoring range, an overall analysis of each measure's relative importance could result in varying adjustment amounts depending on each institution's unique set of circumstances. For Bank A, a 5-point adjustment may be most appropriate.

The next example illustrates the analytical process the FDIC will follow in determining to propose an upward adjustment based on scorecard measure outliers. As in the example above, the example is merely illustrative; an institution with less extreme values may also receive an upward adjustment. As shown in Chart 2, Bank B has a total score of 72 and three scorecard

measures with a score of 100 (indicating higher risk).

Chart 2

Total and Component Scores for Bank B



Note: Solid diamonds denote either the total score or scorecard component scores; clear diamonds denote scores for the scorecard measures that make up the components.

Since at least one of the scorecard measures has a score of 100, the FDIC would further review whether the ratios underlying these measures materially exceed the cutoff value associated with a score of 100. Table 4 shows that Bank B's Criticized and Classified Items to Tier 1 Capital and Reserves ratio (198 percent) far exceeds the cutoff value associated with a score of 100 (100 percent), with the difference representing 105 percent of the associated scoring range. Based on this additional information and assuming no other mitigating factors, the FDIC may determine that the risk associated with Bank B's ability to withstand asset-related stress and, therefore, its overall risk, is materially greater than its score suggests, particularly when compared with other institutions receiving the same overall score. By contrast, the Core ROA and Underperforming Assets to Tier 1 Capital and Reserves values are much closer to their respective cutoff values, suggesting that an adjustment based on these factors may not be justified.

TABLE 4—OUTLIER ANALYSIS FOR BANK B

Scorecard measure	Score	Cutoffs (%)		Value (%)	Outlier amount (value minus cutoff) as percentage of the scoring range
		Minimum	Maximum		
Core ROA	100	0	2	−0.05	−3
Criticized and Classified to Tier 1 Capital & Reserves	*100*	*7*	*100*	*198*	*105*
Underperforming Assets to Tier 1 Capital & Reserves	100	2	35	36	3

After considering any risk-mitigating factors, the FDIC will determine the amount of adjustment needed to make the total score consistent with those of banks of comparable overall risk. For Bank B, a 5-point adjustment may be most appropriate.

B. Information Not Directly Captured by the Scorecard

1. Complementary Risk Measures

Complementary risk measures are measures that are not included in the scorecard, but that can inform the appropriateness of a given scorecard measure for a particular institution. These measures are readily available for all institutions and include quantitative metrics and market indicators that provide further insight into an institution's ability to withstand financial adversity, and the severity of losses in the event of failure.

Analyzing complementary risk measures will help the FDIC determine whether the assumptions applied to a scorecard measure are appropriate for a particular institution. For example, as detailed in the Amended Assessments Regulation, the scorecard includes a loss severity measure based on the FDIC's loss severity model. The measure applies a standard set of assumptions to all large banks to estimate potential losses to the insurance fund. These assumptions, including liability runoffs and asset recovery rates, are derived from actual bank failures; however, the FDIC recognizes that a large bank may have unique attributes that could have a bearing on the appropriateness of those assumptions. When data or quantitative metrics exist that support materially different runoff assumptions or asset recovery rates for a particular institution, the FDIC may consider an adjustment to the total score, particularly if the information is further supported by qualitative loss severity considerations as discussed below.

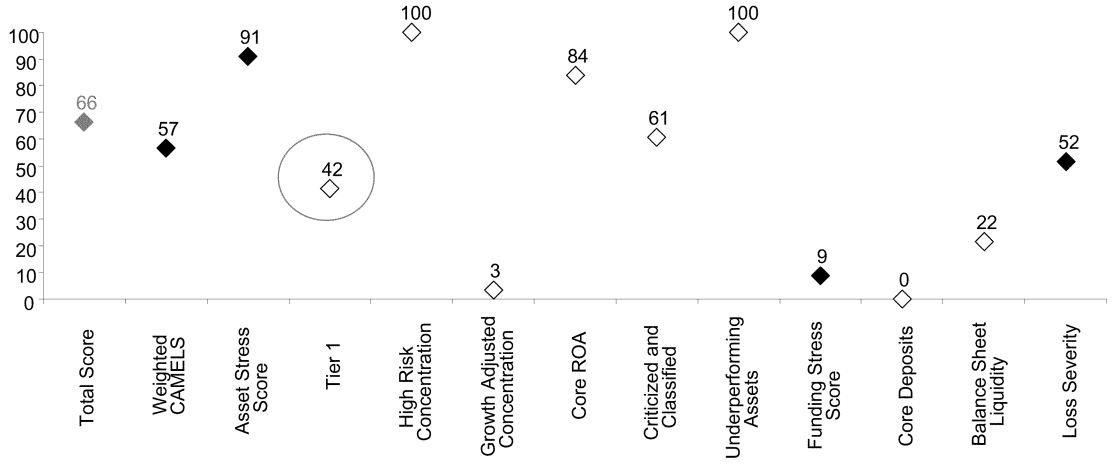
Two commenters suggested that the FDIC provide an exhaustive list of complementary benchmarks or qualitative factors that may be considered during the large bank adjustment process. A few commenters stated that the FDIC has not provided sufficient detail regarding the factors that may trigger a large bank adjustment.

The FDIC agrees that providing an exhaustive list of factors that may be considered in the large bank adjustment process would be ideal, but has concluded that this is not reasonable or practical. The FDIC will consider all factors that may affect an institution's risk profile, including idiosyncratic risks and the dynamic nature of the industry.

The example below illustrates the analytical process the FDIC will follow when determining whether to propose an upward adjustment based on complementary risk measures. Again, the example is merely illustrative. Chart 3 shows that Bank C has a total score of 66. Some of Bank C's risk measure scores are significantly higher than the total score, while others, including the Tier 1 leverage ratio score (42), are significantly lower.

Chart 3

Total Score and Component Scores for Bank C



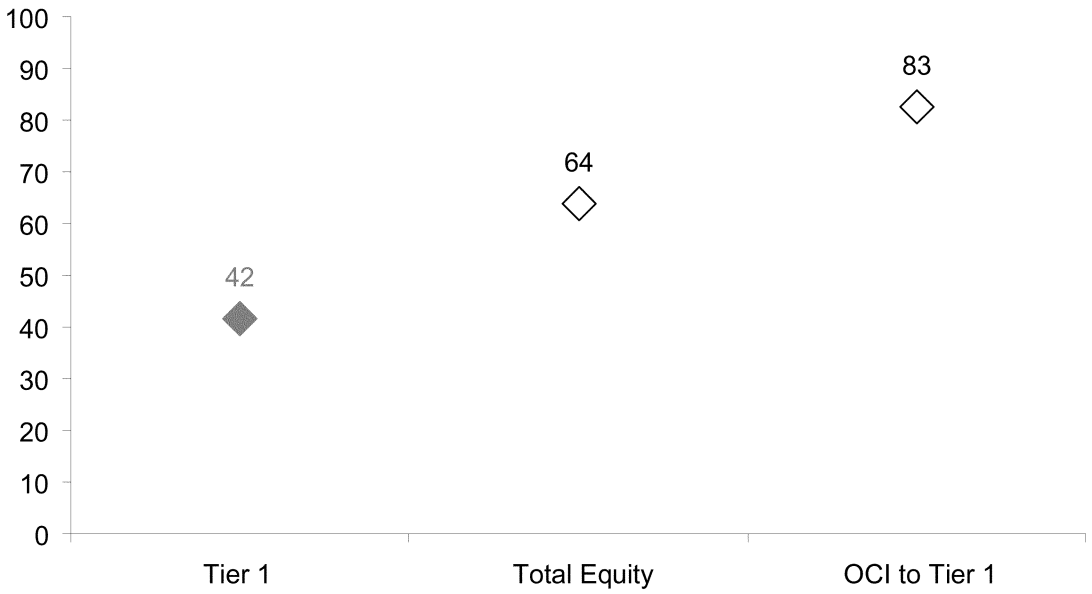
Note: Solid diamonds denote either the total score or scorecard component scores; clear diamonds denote scores for the scorecard measures that make up the components.

In this hypothetical, following a review of complementary measures for all financial ratios in the scorecard, the complementary measures for Tier 1 leverage ratio shows that the level and quality of capital protection may not be correctly reflected in the Tier 1 leverage ratio score. Chart 4 shows that two other complementary capital measures for

Bank C—the total equity ratio and the ratio of other comprehensive income (OCI) to Tier 1 capital—suggest higher risk than the Tier 1 leverage ratio score suggests. Additional review reveals that sizeable unrealized losses in the securities portfolio account for these differences and that Bank C's loss absorbing capacity is potentially overstated by the Tier 1 leverage ratio.

Chart 4

Complementary Risk Measures for Capital for Bank C



Note: The solid diamond denotes a scorecard measure; the clear diamonds denote complementary risk measures.

An upward adjustment to Bank C's total score may be appropriate, again assuming that no significant risk mitigants are evident. An adjustment of 5 points would be likely since the underlying level of unrealized losses is extremely high (greater than 25% of Tier 1 capital). While the adjustment in this case would likely be limited to 5 points because the bank's concentration measure and credit quality measure already receive the maximum possible score, in other cases modest unrealized losses could lead to a higher overall adjustment amount, if the concentration and credit quality measures were understated as well.[13]

2. Qualitative Risk Considerations

The FDIC believes that it is important to consider all relevant qualitative risk considerations in determining whether to apply a large bank adjustment. Qualitative information often provides significant insights into institution-specific or idiosyncratic risk factors that are impossible to capture in the scorecard. Similar to scorecard outliers and complementary risk measures, the FDIC will use the qualitative information to consider whether potential discrepancies exist between the risk ranking of institutions based on their total score and the relative risk ranking suggested by a combination of risk measures and qualitative risk considerations. Such information includes, but is not limited to, analysis based on information obtained through the supervisory process, including information gained through the FDIC's special examination authority, such as underwriting practices, interest rate risk exposure and other information obtained through public filings.[14]

Another example of qualitative information that the FDIC will consider is available information pertaining to an institution's ability to withstand adverse events. Sources of this information are varied but may include analyses produced by the institution or supervisory authorities, such as stress test results, capital adequacy assessments, or information detailing the risk characteristics of the institution's lending portfolios and other businesses. Information pertaining to internal stress test results and internal capital adequacy assessment will be used qualitatively to help inform the relative importance of other risk measures, especially concentrations of credit exposures and other material non-lending business activities. As an example, in cases where an institution has a significant concentration of credit risk, results of internal stress tests and

[13] The concentration measure and the credit quality measure are expressed as a percent of Tier 1 capital plus the allowance for loan loss reserves.

[14] 12 U.S.C. 1820(b)(3); see Interagency Memorandum of Understanding on Special Examinations dated July 12, 2010. *http://www.fdic.gov/news/news/press/2010/pr10153.html.*

internal capital adequacy assessments could alleviate FDIC concerns about this risk and therefore provide support for a downward adjustment, or alternatively, provide additional mitigating information to forestall a pending upward adjustment. In some cases, stress testing results may suggest greater risk than is normally evident through the scorecard methodology alone.

Qualitative risk considerations will also include information that could have a bearing on potential loss severity, and could include, for example, the ease with which the FDIC can make quick deposit insurance determinations and depositor payments, or the availability of sufficient information on qualified financial contracts to allow the FDIC to accurately analyze these contracts in a timely manner in the event of the institution's failure.

In general, qualitative factors will become more important in determining whether to apply an adjustment when an institution has high performance risk or if the institution has high asset, earnings, or funding concentrations. For example, if a bank is near failure, qualitative loss severity information becomes more important in the adjustment process.

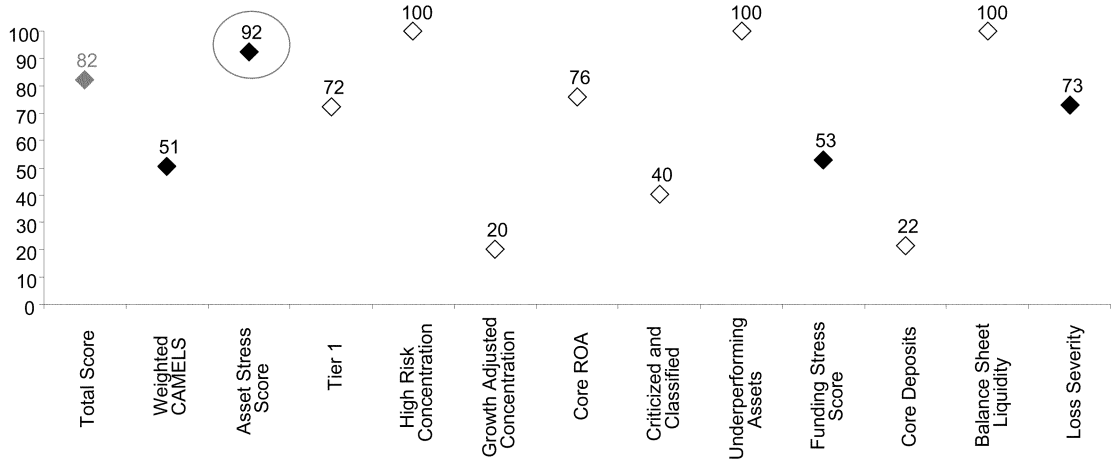
Further, if a bank has material concentrations in some asset classes, the quality of underwriting becomes more important in the adjustment process.

Additionally, engaging in certain business lines may warrant further consideration of qualitative factors. For instance, supervisory assessments of operational risk and controls at processing banks are likely to be important regardless of the institution's performance.

The specific example below illustrates the analytical process the FDIC will follow to determine whether to make an adjustment based on qualitative information. Chart 5 shows that Bank D has a high score of 82 that is largely driven by a high score for the ability to withstand asset-related stress component, which is, in turn, largely driven by the higher-risk asset concentration score and the underperforming asset score. The ability to withstand asset-related stress component is heavily weighted in the scorecard (50 percent weight), and, as a result, significant qualitative information that is not considered in the scorecard could lead to an adjustment to the institution's total score.

Chart 5

Total Score and Component Scores for Bank D



Note: Solid diamonds denote either the total score or scorecard component scores; clear diamonds denote scores for the scorecard measures that make up the components.

The FDIC would review qualitative information pertaining to the higher-risk asset concentration measure and the underperforming asset measure for Bank D to determine whether there are one or more important risk mitigants that are not factored into the scorecard. The example assumes that FDIC's review revealed that, while Bank D has concentrations in non-traditional mortgages, its mortgage portfolio has the following characteristics that suggest lower risk:

a. Most of the loan portfolio is composed of bank-originated residential real estate loans on owner-occupied properties;

b. The portfolio has strong collateral protection (*e.g.,* few or no loans with a high loan-to-value ratio) compared to the rest of the industry;

c. Debt service coverage ratios are favorable (*e.g.,* few or no loans with a high debt-to-income ratio) compared to the institution's peers;

d. The primary federal regulator notes in its examination report that the institution has strong collection practices and reports no identified risk management deficiencies.

Additionally, these qualitative factors surrounding the bank's real estate portfolio suggest that the loss rate assumptions applied to Bank D's residential mortgage portfolio may be too severe, resulting in a loss severity score that is too high relative to its risk.

Based on the information above, the bank would be a strong candidate for a 10 to 15 point reduction in total score, primarily since the ability to withstand

asset-related stress score and loss severity score do not reflect a number of significant qualitative risk mitigants that suggest lower risk.

VI. Additional Comments

The FDIC received two comments stating that including Troubled Debt Restructurings (TDR) in the Criticized and Classified items and/or underperforming assets ratios and/or the higher-risk concentration measure is inconsistent with the FDIC's public remarks encouraging institutions to enter into loan modifications. In particular, the commenter cited remarks made in ''Supervisory Insights: Regulatory Actions Related to Foreclosure Activities by Large Servicers and Practical Implications for Community Banks.'' One commenter suggested that the FDIC include in the guidelines a method to adjust institutions' scores that actively demonstrates support for the FDIC's guidance on mortgage loan modifications.

Many loan modifications, such as those to reduce the interest rate for competitive reasons, are not TDRs. However, a loan modification results in a TDR when a creditor for economic or legal reasons related to the borrower's financial difficulties grants a concession to the borrower that the creditor would not otherwise have considered if it were not for the borrower's financial difficulties. Restructured workout loans typically present an elevated level of credit risk as the borrowers are not able to perform according to the original contractual terms. The FDIC is interested in pricing for risk; therefore, TDRs (which display higher risk) are included in certain scorecard ratios.

The FDIC does not believe the definitions and the application of those definitions in the pricing rule for these higher risk assets is inconsistent with the FDIC's guidance to ''avoid unnecessary foreclosures and consider mortgage loan modifications or other workouts that are affordable and sustainable.'' To the extent that TDRs have risk mitigants that materially lower an institution's risk profile relative to that institution's total score, the FDIC would consider those specific mitigants in the adjustment process.

VII. Effective Date: September 13, 2011

VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This Notice of Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions includes a provision allowing large and highly complex institutions to make a written request to the FDIC for an adjustment to an institution's total score. An institution's request for adjustment is considered only if it is supported by evidence of a material risk or risk-mitigating factor that is not adequately accounted for in the scorecard.

In conjunction with publication of the Proposed Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions, the FDIC submitted to OMB a request for clearance of the paperwork burden associated with the request for adjustment. That request is still pending. The proposal requested comment on the estimated paperwork burden. One comment addressing the estimated paperwork burden was received; the commenter stated that the number of hours required to prepare an institution-initiated request for adjustment was underestimated. The FDIC agrees that there can be significant variations in the amount of time required to provide a written request for an adjustment and has altered its initial burden estimates accordingly. The revised estimated burden for the application requirement is as follows:

Title: ''Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions—Request for Adjustment.''

OMB Number: 3064–0179.

Respondents: Large and Highly Complex insured depository institutions.

Number of Responses: 0–11 per year.

Frequency of Response: Occasional.

Average number of hours to prepare a response: 8–80.

Total Annual Burden: 0–880 hours.

Comment Request: The FDIC has an ongoing interest in public comments on its collections of information, including comments on: (1) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (2) the accuracy of the estimates of the burden of the information collection, including the validity of the methodologies and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Comments may be submitted to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@fdic.gov:* Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary Kuiper (202–898–3877), Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. A copy of the comment 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, Room 3208, Washington, DC 20503. All comments should refer to the ''Assessment Rate Adjustment Guidelines for Large and Highly Complex Institutions—Request for Adjustment.'' (OMB No. 3064–0179).

By order of the Board of Directors.

Dated at Washington, DC, this 13th day of September, 2011.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2011–23835 Filed 9–16–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the *Paperwork Reduction Act* (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR Part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the *Paperwork Reduction Act* Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an

information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 18, 2011.

ADDRESSES: You may submit comments, identified by *Reg H–2,* by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.,) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829) Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Report title: Recordkeeping and Disclosure Requirements Associated with Loans Secured by Real Estate Located in Flood Hazard Areas Pursuant to Section 208.25 of Regulation H.

Agency form number: Reg H–2.

OMB control number: 7100–0280.

Frequency: Event-generated.

Reporters: State member banks.

Estimated annual reporting hours: Notice of special flood hazards to borrowers and servicers, 5,768 hours; notice to FEMA of servicer, 5,768 hours; notice to FEMA of change of servicer, 2,884 hours; notice to borrowers of lapsed mandated flood insurance, 1,167 hours; purchase flood insurance on the borrower's behalf, 824 hours; notice to borrowers of lapsed mandated flood insurance due to remapping, 549 hours; purchase flood insurance on the borrower's behalf due to remapping, 824 hours; and retention of standard FEMA form, 14,420 hours.

Estimated average hours per response: Notice of special flood hazards to borrowers and servicers, 5 minutes; notice to FEMA of servicer, 5 minutes; notice to FEMA of change of servicer, 5 minutes; notice to borrowers of lapsed mandated flood insurance, 5 minutes; purchase flood insurance on the borrower's behalf, 15 minutes; notice to borrowers of lapsed mandated flood insurance due to remapping, 5 minutes; purchase flood insurance on the borrower's behalf due to remapping, 15 minutes; and retention of standard FEMA form, 2.5 minutes.

Number of respondents: 824.

General description of report: This information collection is mandatory pursuant to Section 12 of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4012a) and section 1364 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4104a). Since the Federal Reserve does not collect any information associated with Reg H–2, confidentiality would not generally be an issue. However, confidentiality issues may arise should the records required by the *Reg H–2* requirements come into possession of the Board during an examination of a state member bank, those records would be protected from disclosure by exemption 8 of the Freedom of Information Act. (5 U.S.C. 552(b)(8)).

Abstract: Regulation H requires state member banks to notify a borrower and servicer when loans secured by real estate are determined to be in a special flood hazard area and notify them whether flood insurance is available; notify FEMA of the identity of, and any change of, the servicer of a loan secured by real estate in a special flood hazard area; and retain a completed copy of the Standard Flood Hazard Determination Form used to determine whether property securing a loan is in a special flood hazard area.

Current Action: The Federal Reserve proposes to extend, with revision, the recordkeeping and disclosure requirements of Regulation H for loans secured by improved property in areas having special flood hazards.[1] Although state member banks have been required to comply with Section 208.25 of Regulation H for some time, the current information collection does not include disclosures related to ensuring maintenance of flood insurance over the

[1] A special flood hazard area is defined by Regulation H as land in the flood plain within a community having at least a 1 percent chance of flooding in any given year, as designated by FEMA.

life of these loans. The Federal Reserve proposes to revise the information collection to account for this statutory requirement.

September 14, 2011.

Board of Governors of the Federal Reserve System.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–23961 Filed 9–16–11; 8:45 am]

BILLING CODE 6210–01–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 October 3, 2011.

A. *Federal Reserve Bank of Richmond* (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *FIE I LLC, Newport Beach, California, a Delaware limited liability company; PIMCO BRAVO Fund, L.P., Newport Beach, California, a Delaware limited partnership; PIMCO GP IX, LLC, Newport Beach, California, a Delaware limited partnership; Pacific Investment Management Company LLC, Newport Beach, California, a Delaware limited liability company; PIMCO BRAVO Fund Special Offshore Feeder I, L.P., Newport Beach, California, a Cayman Islands exempted limited partnership; PIMCO BRAVO Fund Special Onshore Feeder I, L.P., Newport Beach, California, a Delaware limited partnership; PIMCO BRAVO Fund Offshore Feeder I, L.P., Newport Beach, California, a Cayman Islands exempted limited partnership; PIMCO BRAVO Fund Onshore Feeder I,L.P., Newport Beach, California, a Delaware limited partnership; PIMCO BRAVO Fund Special Onshore Feeder (TE) I, L.P., Newport Beach, California, a Delaware limited partnership; PIMCO BRAVO Holding Fund I, L.P., Newport Beach, California, a Cayman limited partnership; Allianz Global Investors of America L.P., Newport Beach, California, a Delaware limited partnership; Allianz Global Investors of America LLC, Newport Beach, California, a Delaware limited liability company; Allianz Global Investors U.S. Holding II LLC, Newport Beach, California, a Delaware limited liability company; PFP Holdings, Inc., Newport Beach, California, a Delaware corporation; Allianz Global Investors of America Holdings Inc., Munich, Germany, a Delaware corporation; Allianz Global Investors Aktiengesellschaft, Munich, Germany, a German corporation; Allianz of America, Inc., Novato, California, a Delaware corporation; Allianz Finanzbeteiligungs GMBH, Munich, Germany, a German limited liability company; and Allianz SE, Munich, Germany, a German corporation,* to acquire voting shares of ECB Bancorp, Inc., and thereby indirectly acquire voting shares of The East Carolina Bank, both in Engelhard, North Carolina.

B. *Federal Reserve Bank of Dallas* (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Steven Gregory Kidd, Plano, Texas, individually and as trustee for The Greg Kidd 2010 Trust, The John Luster Kidd 2011 Family Trust, and as co-trustee for The Family Trust; John Luster Kidd, Tyler, Texas, individually and as trustee for The Greg and Shelly Kidd 2011 Trust, The Luster Kidd 2010 Trust, and as co-trustee for The Family Trust; and collectively Steven Gregory Kidd and John Luster Kidd as the Kidd Family Group;* to acquire voting shares of Kidd Partners, Ltd., and thereby indirectly acquire voting shares of Chandler Bancorp, Inc., both in Tyler, Texas, Chandler Bancorp of Nevada Inc., Carson City, Nevada, and Citizens State Bank, Tyler, Texas.

Board of Governors of the Federal Reserve System, September 13, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–23853 Filed 9–16–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2011–23321) published on page 56455 of the issue for Tuesday, September 13, 2011.

Under the Federal Reserve Bank of Atlanta heading, the entry for Trade Street Holdings, LLC Trade Street BFHI Holdings, LLC, both in Aventura Florida, and Florida Carpenters Regional Council Pension Fund, Hialeah, Florida, is revised to read as follows:

A. *Federal Reserve Bank of Atlanta* (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. Trade Street Investment Services, LLC; Trade Street BFHI Holdings, LLC; Trade Street Financial Holdings, LLC, all in Aventura, Florida, and Florida Carpenters Regional Council Pension Fund, Hialeah, Florida; to become bank holding companies by acquiring 52.41 percent of the voting shares of Broward Financial Holdings, Inc., and its subsidiary, Broward Bank of Commerce, both in Fort Lauderdale, Florida.

Comments on this application must be received by October 7, 2011.

Board of Governors of the Federal Reserve System, September 13, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–23854 Filed 9–16–11; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT PRINTING OFFICE

Meeting Notice; Depository Library Council to the Public Printer

The Depository Library Council to the Public Printer (DLC) will meet on Monday, October 17, through Thursday, October 20, 2011, from 8 a.m. to 5:30 p.m., at the Doubletree Hotel-Crystal City, located at 300 Army Navy Drive, Arlington, Virginia, to discuss the Federal Depository Library Program. All sessions are open to the public. The sleeping rooms available at the Doubletree Hotel-Crystal City will be at the Government rate of $226.00 per night (plus applicable state and local taxes, currently 10.25%) for a single or a double. The Doubletree Hotel-Crystal City is in compliance with the requirements of Title III of the *Americans with Disabilities Act* and meets all *Fire Safety Act* regulations.

William J. Boarman,

Public Printer of the United States.

[FR Doc. 2011–23948 Filed 9–16–11; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Consumer Health IT Pledge Program

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of availability for Consumer Health IT Pledge Program.

SUMMARY: The U.S. Department of Health & Human Services' Office of the National Coordinator for Health Information Technology (ONC) is leading a national campaign to educate and engage the public on the value and benefits of health information technology (*health IT*) in improving health and health care. As part of the campaign, we encourage entities that touch Americans' lives to pledge to empower individuals to be partners in their health through health IT. There are two types of pledges: One for those who manage or maintain individually identifiable health data (*e.g.,* providers, hospitals, payers, retail pharmacies) and another for those who do not manage or maintain consumer health data, but have the ability to educate consumers about the importance of getting access to and using their health information (*e.g.,* employers, consumer and disease-based organizations, healthcare associations, product developers).

Taking the pledge is voluntary, and does not represent any endorsement by the U.S. Department of Health and Human Services or any other part of the federal government.

To learn more about the details of the pledge, please visit: *http://www.healthit.gov/pledge.*

Notice of this schedule is given under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), section 3003.

Dated: September 9, 2011.

Jodi Daniel,

Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–23889 Filed 9–16–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the National Coordinator for Health Information Technology; Delegation of Authority

Notice is hereby given that I have delegated to the National Coordinator for Health Information Technology (National Coordinator), or his or her successor, the authorities vested in the Secretary under section 1704 of Title XVII of the Public Health Service Act (PHSA) (42 U.S.C. 300u–3), as amended, to conduct and support by grant or contract (and encourage others to support) such activities as may be required to make information respecting health information and health promotion, preventive health services, and education in the appropriate use of health care available to the consumers of medical care, providers of such care, schools, and others who are or should be informed respecting such matters.

Limitations

The delegation of authority granted herein under section 1704 of Title XVII of the PHSA (42 U.S.C. 300u–3) does not supersede any previous delegations of this authority.

The delegation of authority granted herein under section 1704 of the PHSA, as amended, is limited to making information available to the consumers of medical care, providers of such care, schools, and others who are or should be informed about the use of health information technology as it relates to health information and health promotion, preventive health services, and education in the appropriate use of health care.

The authority under section 1704 of the PHSA, as amended, shall be exercised under the Department's policy on regulations and the existing delegation of authority to approve and issue regulations.

This delegation of authority may be re-delegated.

This delegation of authority is effective immediately.

I hereby affirm and ratify any actions taken by the National Coordinator, or his or her subordinates, which involved the exercise of the authority under section 1704 of Title XVII of the PHSA (42 U.S.C. 300u–3), as amended, delegated herein prior to the effective date of this delegation of authority.

Authority: 44 U.S.C. 3101.

Dated: September 12, 2011.

Kathleen Sebelius,

Secretary.

[FR Doc. 2011–23886 Filed 9–16–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its twenty-sixth meeting. The meeting will be open to the public. Information about SACHRP and the meeting agenda will be posted on the SACHRP Web site at: *http://www.dhhs.gov/ohrp/sachrp/mtgings/index.html.*

DATES: The meeting will be held on Tuesday, October 4, 2011 from 8:30 a.m. until 5 p.m. and Wednesday, October 5, 2011 from 8:30 a.m. until 5 p.m.

ADDRESSES: U.S. Department of Health and Human Services, 200 Independence Avenue SW., Hubert H. Humphrey Building, Room 800, Washington, DC 20201.

FOR FUTHER INFORMATION CONTACT: Jerry Menikoff, M.D., J.D., Director, Office for Human Research Protections (OHRP), or Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; 240–453–8141; *fax:* 240–453–6909; *e-mail address: Julia.Gorey@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

Both days of this meeting will be devoted to SACHRP discussion of the recent Advance Notice of Proposed Rulemaking (ANPRM), *Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay, and Ambiguity for Investigators,* published in the July 26 **Federal Register**. The meeting will open October 4 with remarks from SACHRP Chair Dr. Barbara Bierer and OHRP Director Dr. Jerry Menikoff, followed by presentation of joint recommendations on the ANPRM from the Subpart A Subcommittee (SAS) and the Subcommittee on Harmonization (SOH).

SAS is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment; this

subcommittee was established by SACHRP in October 2006. SOH was established by SACHRP at its July 2009 meeting, and is charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination.

Public Comment will be heard on both days.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Executive Director, SACHRP, prior to the close of business September 30, 2011.

Dated: September 13, 2011.

Jerry Menikoff,

Director, Office for Human Research Protections, Executive Secretary, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. 2011–23863 Filed 9–16–11; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office of the Surgeon General of the United States Public Health Service.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), notice is hereby given that a meeting is scheduled to be held for the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health (the ''Advisory Group''). The meeting will be open to the public. Information about the Advisory Group can be obtained by accessing the following Web site: *http://www.healthcare.gov/center/councils/nphpphc/index.html.*

DATES: The meeting will be held on October 3–4, 2011.

ADDRESSES: Will be announced on the Web site: *http://www.healthcare.gov/center/councils/nphpphc/index.html.*

FOR FURTHER INFORMATION CONTACT: Office of the Surgeon General, 200 Independence Ave., SW.; Hubert H. Humphrey Building, Room 701H; Washington, DC 20001; 202–205–9517; *prevention.council@hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 10, 2010, the President issued Executive Order 13544 to comply with the statutes under Section 4001 of the Patient Protection and Affordable Care Act, Public Law 111–148. This legislation mandated that the Advisory Group was to be established within the Department of Health and Human Services. The charter for the Advisory Group was established by the Secretary of Health and Human Services on June 23, 2010; the charter was filed with the appropriate Congressional committees and Library of Congress on June 24, 2010. The Advisory Group has been established as a non-discretionary Federal advisory committee.

The Advisory Group has been established to provide recommendations and advice to the National Prevention, Health Promotion and Public Health Council (the ''Council''). The Advisory Group shall provide assistance to the Council in carrying out its mission.

The Advisory Group membership shall consist of not more than 25 non-Federal members to be appointed by the President. The membership shall include a diverse group of licensed health professionals, including integrative health practitioners who have expertise in (1) worksite health promotion; (2) community services, including community health centers; (3) preventive medicine; (4) health coaching; (5) public health education; (6) geriatrics; and (7) rehabilitation medicine. There are currently 16 members of the Advisory Group appointed by the President. This will be the third meeting of the Advisory Group.

Public attendance at the meeting is limited to the space available. Members of the public who wish to attend must register by 12 p.m. EST September 26, 2011. Individuals should register for public attendance at *prevention.council@hhs.gov* by providing your full name and affiliation. Individuals who plan to attend the meeting and need special assistance and/or accommodations, *i.e.,* sign language interpretation or other reasonable accommodations, should notify the designated point of contact for the Advisory Group. The public will have the opportunity to provide comments to the Advisory Group on October 3, 2011; public comment will be limited to 3 minutes per speaker. Registration through the designated contact for the public comment session is also required. Any member of the public who wishes to have printed materials distributed to the Advisory Group for this scheduled meeting should submit material to the designed point of contact no later than 12 p.m. EST September 26, 2011.

Dated: September 8, 2011.

Corinne M. Graffunder,

Acting Designated Federal Officer, Advisory Group on Prevention, Health Promotion, and Integrative and Public Health Office of the Surgeon General.

[FR Doc. 2011–23869 Filed 9–16–11; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New System of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice to establish a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, CMS is establishing a new system of records to support its shared savings programs, the first of which are the Medicare Shared Savings Program and Pioneer ACO Model (collectively referred to as the ACO program). The ACO program implements recent health care reform provisions of the Patient Protection and Affordable Care Act (PPACA), amending the Social Security Act (the Act). The system of records will contain personally identifiable information (PII) about certain individuals who participate in, or whose PII is used to determine eligibility of an Accountable Care Organization (ACO) to participate in, a shared savings program; *i.e.,* Medicare fee-for-service (FFS) beneficiaries, sole proprietor health care ACO participants and ACO suppliers/providers, key leaders and managers of accountable care organizations (ACOs), and contact persons for ACOs. The program and the system of records are more thoroughly described in the Supplementary Information section and System of Records Notice (SORN), below.

DATES: CMS filed a new system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on September 14, 2011. To ensure that all parties have adequate time in which to comment, the new system, including routine uses, will become effective October 19, 2011. If CMS receives comments that require alterations to this notice, we will publish a revised notice in the **Federal Register**.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Information Security & Privacy Management, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N1–24–08, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: *For Medicare Shared Savings Program:* Rebecca Weiss, Program Analyst, Performance-Based Payment Policy Staff, Center for Medicare, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail-stop: C5–15–12, Baltimore, MD 21244–1850. Office: 410–786–8084, Facsimile: (410) 786–8005, E-mail address: *aco@cms.hhs.gov.*

For Pioneer Aco Model: Alli Chandra, Health Insurance Specialist, Center for Medicare and Medicaid Innovation, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop: S3–13–05, Baltimore, MD 21244–1850. Office Ph: 410–786–1132, Facsimile: (410) 786–0487, E-mail address: *alli.chandra@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: This System of Records Notice (SORN) addresses a new system which HHS is establishing to support CMS shared savings programs created as a result of the Patient Protection and Affordable Care Act (Pub. L. 111–148), the first of which are the Medicare Shared Savings Program and Pioneer ACO Model (ACO program) described in more detail below.

I. Medicare Shared Savings Program

The recently passed health care reform bill, the Affordable Care Act (PPACA) (Pub. L. 111–148), contains provisions that seek to reward quality care and takes steps toward paying for high quality and efficient care. One of these provisions, Section 3022, amended Title XVIII of the Social Security Act (the Act) (42 U.S.C. 1395 *et seq.*) by adding new section 1899 to the Act to establish a shared savings program (SSP) that promotes accountability for a patient population, coordinates items and services under Parts A and B, and encourages investment in infrastructure and redesigned care processes for high quality and efficient service delivery. Specifically:

- Section 1899(a)(1) of the Act requires the Secretary to establish the shared savings program no later than January 1, 2012. Section 1899(a)(1) (A) of the Act further provides that, ''groups of providers of services and suppliers meeting criteria specified by the Secretary may work together to manage and coordinate care for Medicare fee-for-service (FFS) beneficiaries through an accountable care organization (ACO).''
- Section 1899(a)(1)(B) of the Act provides that ACOs that meet quality performance standards established by the Secretary are eligible to receive payments for ''shared savings.''

The Shared Savings Program is a voluntary program. The statute provides that, to participate in the program, an ACO must ''provide the Secretary with such information regarding the ACO professionals participating in the ACO as the Secretary determines necessary to support the assignment of Medicare fee-for-service beneficiaries to an ACO, the implementation of quality and other reporting requirements * * * and the determination of payments for shared savings.'' The statute requires an ACO to meet certain eligibility criteria including, but not limited to, having ''a formal legal structure that would allow the organization to receive and distribute payments for shared savings,'' having ''in place a leadership and management structure that includes clinical and administrative systems,'' and demonstrating ''to the Secretary that it meets patient-centeredness criteria specific by the Secretary.'' In addition, the ACO must agree to participate for not less than 3 years, have a formal legal structure including primary care providers sufficient for the care of not less than 5000 beneficiaries, and meet others requirements.

The statute defines an ACO as organization of health care providers that agrees to become accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program who are assigned to it. The statute states that there are many types of organizational arrangements for eligibility to become an ACO, as determined appropriate by the Secretary.

To qualify for shared savings payments, the ACO must meet specific cost and quality benchmarks. Quality performance standards will be determined by the Secretary and may include measures of clinical processes and outcomes, patient and/or caregiver experience, and utilization measures. An ACO will be eligible to receive a share (a percentage, and any limits, to be determined by the Secretary) of any savings if the actual per capita expenditures of its assigned Medicare beneficiaries are a sufficient percentage below its specified benchmark amount. The benchmark for each ACO will be based on the most recent available three years of per-beneficiary expenditures for Parts A and B services for Medicare FFS beneficiaries assigned to the ACO. The benchmark for each ACO will be adjusted for beneficiary characteristics and other factors as determined by the Secretary, and updated by the projected absolute amount of growth in national per capita expenditures for Parts A and B.

II. Pioneer ACO Model

Another provision of the Affordable Care Act (PPACA), Section 3021, amended Title XVIII of the Social Security Act (the Act) (42 U.S.C. 1395 *et seq.*) by adding new section 1899 to the Act to establish the Center for Medicare and Medicaid Innovation (Innovation Center). The Innovation Center is tasked with development of the Pioneer ACO Model. Under the Pioneer ACO Model, the Innovation Center will engage up to 30 highly experienced provider organizations in testing alternative payment models that include escalating financial accountability and substantial quality/patient experience standards (''outcomes based arrangements''). CMS intends to pursue payment models that (1) *i*nclude escalating levels of financial accountability through successive performance periods during the Participation Agreement; (2) provide a transition to Population-Based Payment by the third performance period, and (3) are projected by CMS to generate Medicare savings by the end of the second performance period.

III. The Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the United States Government collects, maintains, and uses personally identifiable information (PII) in a system of records. A ''system of records'' is a group of any records under the control of a Federal

agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a system of records notice (SORN) identifying and describing each system of records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individual record subjects can exercise their rights under the Privacy Act (*e.g.,* to determine if the system contains information about them).

The Privacy Act permits an agency to disclose information about an individual (PII) without that individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of PII is known as a ''routine use.'' HHS/CMS will only release PII from this system as provided in the ''Routine Uses'' section below. Both identifiable and non-identifiable data may be disclosed under a routine use. HHS/CMS will only disclose the minimum PII necessary to achieve the purpose of the routine use, after determining that:

- The use or disclosure is consistent with the reason that the PII was collected;
- The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;
- The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect on and/or risk to the privacy of the individual that additional exposure of the record might bring;
- There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s); and
- The data are valid and reliable.

Additionally, HHS/CMS will require the information recipient to:

- Establish administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;
- Remove or destroy at the earliest time all individually-identifiable information; and
- Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

SYSTEM NUMBER: 09–70–0598

SYSTEM NAME:

ACO Database System HHS/CMS/CM and HHS/CMS/CMMI.

SECURITY CLASSIFICATION:

Sensitive, unclassified.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various accountable care organization (ACO) locations and contractor sites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain personally identifiable information (PII) about the following categories of individuals who participate in, or whose PII is used to determine eligibility of an ACO to participate in, a Health and Human Services (HHS) Centers for Medicare & Medicaid Services (CMS) Medicare shared savings program:

- Medicare fee-for-service (FFS) beneficiaries who receive health care services coordinated and managed by a group of health care providers and suppliers organized to receive shared savings incentive payments, as an accountable care organization (ACO).
- Any providers or suppliers participating in an ACO who are sole proprietorships, for whom certain business-identifying information may therefore constitute personally identifiable information.
- Key leaders and managers of an ACO who provide certain personally identifiable information that is used to determine the ACO's eligibility to participate in the program.
- Any contact persons for an ACO who provide contact information for use in contacting them for information about the ACO.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system may include, but will not necessarily be limited to, the following categories of records, containing PII (or possible PII) data elements such as the following:

- Medicare fee-for-service (FFS) beneficiary claims records, containing the beneficiary's name, gender, Health Insurance Claim Number (HICN) (which could be the beneficiary's Social Security Number), address, date of birth and description of provided services.
- ACO eligibility and contact records, containing the ACO name and address (which could be the home address of a key leader or manager of the ACO); ACO participant or ACO provider/supplier names and addresses (which could include home addresses for any sole proprietor providers/suppliers in the ACO); ACO participant Tax Identification Number (TIN) (which could be a Social Security Number for a sole proprietor ACO participant or ACO provider/supplier in the ACO); National Provider Identifier (NPI) (which is considered PII for an individual provider/supplier); and (for individuals serving as key leaders or managers of an ACO) the individual's name and address (which could be a home address).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Patient Protection and Affordable Care Act (Pub. L. 111–148), which amended Title XVIII of the Social Security Act (the Act) (42 U.S.C. 1395 *et seq.*) to add new section 1899 to the Act to establish a Medicare Shared Savings Program (MSSP); and Section 3021 of the Patient Protection and Affordable Care Act, which amended Title XI of the Social Security Act (the Act) (42 U.S.C. 1301 *et seq.*) to add new section 1115A to the Act to establish the Center for Medicare and Medicaid Innovation.

PURPOSE(S) OF THE SYSTEM:

The system will enable the HHS Centers for Medicare & Medicaid Services (CMS) to administer the ACO program. Relevant HHS personnel, and any CMS contractors, grantees and consultants assisting them, will use personally identifiable information (PII) from this system on a ''need to know'' basis for these purposes:

- Beneficiary claims information and ACO eligibility and contact information will be used to support the regulatory, reimbursement and policy functions of shared savings programs and to combat fraud, waste and abuse in certain health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

Any of the PII from this system may be disclosed outside HHS for these routine uses:

1. To obtain assistance from other Federal agencies that help HHS, pursuant to agreements with CMS, to determine the eligibility of ACO applicants to participate in the program. For example, a TIN (which may be a Social Security Number) may be shared with the U.S. Federal Trade Commission (FTC) and the U.S. Department of Justice (DOJ) for purposes of obtaining their assessment of the ACO applicant's market share status.
2. To provide ACOs with information they need to meet requirements and

implement quality and other reporting requirements of the program.

3. To provide information to the U.S. Department of Justice (DOJ), a court, or an adjudicatory body when (a) the Agency or any component thereof, or (b) any employee of the Agency in his or her official capacity, or (c) any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or (d) the United State Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court, or adjudicatory body is compatible with the purpose for which the agency collected the records.

4. To assist another Federal agency or an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers or that has the authority to investigate potential fraud, waste or abuse in a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

5. To assist appropriate Federal agencies and HHS contractors that have a need to know the information for the purpose of assisting HHS's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, provided that the information disclosed is relevant and necessary for that assistance.

ADDITIONAL CIRCUMSTANCES AFFECTING DISCLOSURE OF PII ABOUT BENEFICIARIES:

To the extent that the beneficiary claims records in this system contain Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E), disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information'' (see 45 CFR 164–512 (a)(1)). In addition, HHS policy will be to prohibit release even of data not directly identifiable with a particular beneficiary, except pursuant to one of the routine uses or if required by law, if HHS determines there is a possibility that a particular beneficiary can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of a particular beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM—

STORAGE:

Electronic records will be stored on both tape cartridges (magnetic storage media) and in a in a DB2 and/or Oracle relational database management environment (DASD data storage media). Any hard copies of ACO program-related records containing PII at HHS/CMS, ACO and contractor locations will be kept in hard-copy file folders locked in secure file cabinets during non-duty hours.

RETRIEVABILITY:

Information may be retrieved by any of these personal identifiers: ACO participant TIN (which could be a sole proprietor provider/supplier's Social Security Number), National Provider Identifier (NPI), or beneficiary Health Insurance Claim Number (HICN)) (which may be the beneficiary's Social Security Number).

SAFEGUARDS:

Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

Access to records in the ACO Database System will be limited to CMS personnel, and any contractors, grantees and consultants assisting them, through password security, encryption, firewalls, and secured operating system.

Future system enhancements may allow for ACOs, ACO participants or ACO provider/suppliers, and beneficiaries to be external users of the system, for purposes of viewing and inputting their records in this system. Access controls will ensure that each external user is restricted to viewing only the user's own records, not records pertaining to other users.

Any electronic or hard copies of ACO program-related records containing PII at HHS/CMS, an ACO, and any contractor, grantee or consultant locations will be kept in secure electronic files or in hard-copy file folders locked in secure file cabinets during non-duty hours.

RETENTION AND DISPOSAL:

Records containing PII will be maintained for a period of up to 10 years after entry in the database. Any records that are needed longer, such as to resolve claims and audit exceptions or to prosecute fraud, will be retained until such matters are resolved. Beneficiary claims records are currently subject to a document preservation order and will be preserved indefinitely pending further notice from the U.S. Department of Justice.

SYSTEM MANAGER AND ADDRESS:

Director, Performance-Based Payment Policy Staff, Center for Medicare, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop: C5–15–12, Baltimore, MD 21244–1850; and

Director, Pioneer ACO Model, Center for Medicare and Medicaid Innovation, Centers for Medicare and Medicaid Services, Mailstop: S3–13–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

NOTIFICATION PROCEDURE:

Individuals wishing to know if this system contains records about them should write to one of the system managers and include the pertinent personal identifier used for retrieval of their records (*i.e.,* TIN, NPI or beneficiary Health Insurance Claim Number).

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about them in this system should follow the same instructions indicated under ''Notification Procedure'' and reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5 (a)(2).)

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest the content of information about them in this system should follow the same instructions indicated under ''Notification Procedure.'' The request should reasonably identify the record and specify the information being contested, state the corrective action sought, and provide the reasons for the correction, with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

Personally identifiable information in this database is obtained from the

Medicare Beneficiary Database (MBD) (09–70–0536), from the National Claims History File (NCH) (09–70–0558), and from ACOs that provide the information as required to perform the statutory functions of beneficiary assignment, implementation of quality and other reporting requirements, and determination of shared savings.

EXEMPTIONS CLAIMED FOR THIS SYSTEM:

None.

Dated: September 14, 2011.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 2011–23959 Filed 9–15–11; 11:15 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0465]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study: Effect of Promotional Offers in Direct-to-Consumer Prescription Drug Print Advertisements on Consumer Product Perceptions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 19, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* FDA Desk Officer, *Fax:* 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–New and title ''Experimental Study: Effect of Promotional Offers in Direct-to-Consumer Prescription Drug Print Advertisements on Consumer Product Perceptions.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Juanmanuel Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.Vilela@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Experimental Study: Effect of Promotional Offers in Direct-to-Consumer Prescription Drug Print Advertisements on Consumer Product Perceptions—(OMB Control Number 0910–New)

Section 502(n) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 352(n)) requires advertisements for prescription drugs to include, among other things, ''such information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations.'' Under this authority, FDA has issued regulations to require most prescription drug advertisements to provide a ''true statement of information in brief summary relating to side effects, contraindications, and effectiveness.'' (*§ 202.1(e) (1) (*21 CFR 202.1(e)(1)). To satisfy this requirement, an advertisement that makes claims about a prescription drug must also include a ''fair balance'' of information about the benefits and risks of the advertised product, in terms of both content and presentation (§ 202.1(e)(5)(ii)). In part, *§ 202.1(e)(6)(i) states that* [a]n advertisement for a prescription drug is false, lacking in fair balance, or otherwise misleading, or otherwise violative of section 502(n) of the act, among other reasons, if it [c]ontains a representation or suggestion, not approved or permitted for use in the labeling, that a drug is better, more effective, useful in a broader range of conditions or patients (as used in *§ 202.1 ''patients'' means humans and in the case of veterinary drugs, other animals)* safer, has fewer, or less incidence of, or less serious side effects or contraindications than has been demonstrated by substantial evidence or substantial clinical experience (as described in paragraphs (e)(4)(ii)(*b*) and (e)(4)(ii)(*c*) of *§ 202.1)* whether or not such representations are made by comparison with other drugs or treatments, and whether or not such a representation or suggestion is made directly or through use of published or unpublished literature, quotations, or other references.

FDA's current regulations provide a limited exception to the requirement in § 202.1(e)(1), of presenting a true statement of information in brief summary, for ''reminder advertisements'' (''reminder ads'')—advertisements that draw attention to the name of the product but do not make representations about the product's indication(s) or dosage recommendations (§ 202.1(e)(2)(i)). (Certain drugs are not permitted to qualify for the reminder advertisement exemption.) To meet the terms of this exemption, reminders ads must in general be limited to the proprietary and established name of the product and the established name of each active ingredient in the drug product. Reminder ads may also (optionally) contain information about the product's quantitative ingredients, dosage form, quantity, price, and manufacturer, as well as other written, printed, or graphic matter containing no representation or suggestion relating to the product. Further, reminder ads that are intended to provide consumers with information concerning the price charged for a prescription drug product need not meet the terms of § 202.1(e)(2)(i) in order to be exempt from § 202.1(e)(1) if they meet all of the conditions in *§ 200.200 (*21 CFR 200.200). That regulation, in turn, applies to prescription drug reminders ads that are intended solely to provide consumers with information concerning the price charged for a prescription for a particular drug product, and the reminder ad contains no representation or suggestion concerning the drug product's safety, effectiveness, or indications for use (§ 200.200(a)(1) and (b)).

A topic of ongoing interest for consumer product manufacturers and retailers is the use of consumer-oriented sales promotions such as free trial offers, discounts, money-back guarantees, and rebates. Such promotions are widely used in many product categories, including prescription drugs.

Prior research has demonstrated that the type of promotion offered can affect how consumers respond to the promotion (Refs. 1, 2, and 3). Price incentives [1] may act as cues about product quality. For example, a price incentive may not only act as an economic incentive to buy the product, it may also artificially enhance consumers' perceptions of the product's quality (Ref. 4). In the case that

[1] In this document, we use the terms ''price incentive'' and ''coupon'' interchangeably to refer to the types of promotional offers to be addressed in our study.

consumers can readily test the performance of some products (termed ''experience'' goods; Ref. 5), this misperception is quickly corrected through the consumer's use of the product. In situations where little information about the product is available or when consumers are unmotivated to seek further information, consumers may use price as a heuristic cue to ascertain the quality of a product. Rao (2005; Ref. 6) has referred to the use of price as a cue to quality as the ''price-quality heuristic,'' where heuristics are conceptualized as mental shortcuts that minimize cognitive effort to process information and are used when individuals are unable or unwilling to engage in more analytical processing of information (Ref. 7). For example, if length of warranty is strongly believed to be a good predictor of quality, then consumers may perceive a product as higher quality when a long warranty is present than when one is not present (Ref. 8). Thus, price incentives may have the potential to act as an ''inference rule'' (or heuristic; Refs. 7 and 9) and, when present, they may preempt consumers from thinking carefully about the product information contained in the advertisement (*i.e.,* fully elaborating on the information). This could result in either favorable or unfavorable beliefs about the product (Refs. 10 and 11). If a price incentive offer acts as a mental heuristic in such a way as to result in an unbalanced or misleading impression of the product's safety or efficacy, however, this would raise concerns for FDA.

Consumers vary in their reactions to price incentive promotions, and researchers and economists have proposed a number of explanations for why some consumers are sensitive to these tactics. Two such traits are ''price consciousness'' and ''belief in the price-quality relationship.'' Price consciousness is defined as the degree to which the consumer focuses exclusively on paying low prices. Belief in the price-quality relationship is defined as the degree to which one believes a higher price indicates superior quality (Ref. 12). A broader trait of ''value consciousness'' has also been used. This trait involves assumptions about the construct of perceived value and its relationship (a ratio) with the constructs of perceived quality and perceived price.

While price incentive promotions have been extensively studied in the context of package goods, information on their effects in direct-to-consumer (DTC) prescription drug ads is limited. One relevant study (Ref. 13) found that a free-trial offer in a DTC ad for a high cholesterol drug resulted in more favorable perceptions of the product and the ad (both rated as good/bad, favorable/unfavorable, and pleasant/unpleasant), and greater intentions to ask about the product. No differences were found in terms of perceived product risk. However, the study did not measure perceptions of product risk and benefit separately, or comprehension of risk and benefit information. Additionally, no attempt was made to control for factors that may predispose individuals toward coupon use nor was the study conducted with the target population (high cholesterol sufferers). We propose to expand on this initial study by measuring perceived product risk and benefit separately, measuring risk and benefit comprehension, investigating a variety of price incentive offers, recruiting a wider range of the target audience from malls and online, and by measuring traits that may predispose individuals to be susceptible to coupon influence.

The current study will examine what effect, if any, the presence of promotional offers in DTC prescription drug ads have on the following: (1) Consumers' perceptions of product risks and benefits, (2) recall of product risks and benefits, and (3) strongly held beliefs that may act as potential moderators.

Design Overview: Study 1: This study will examine types of promotional offers (for example, free trial offer; money off cost; money back guarantee; buy one, get one free; and no offer) in three types of drug advertisements (prescription drug full product, over-the-counter (OTC), and prescription drug reminder). The fictitious test product will treat insomnia and will be modeled on an actual drug used to treat this condition. Participants will be consumers who have insomnia or who self-identify as having met the diagnostic criteria for insomnia. Prescription drug full product advertisements contain information about both benefits and risks, OTC drug advertisements contain benefit information but not risk information, and prescription drug reminder advertisements do not contain either benefit or risk information.

Study 1 will be administered in two modes, online and mall-intercept, in order to assess the effects of mode on study results. Table 1 of this document illustrates the design; the specific promotional offers examined will be determined through pretesting. Offers that demonstrate the most effect on perceptions of product efficacy and risk will be selected for the main study.

Study 1 is experimental in method: participants will be randomly assigned to read one ad version. After reading the ad, participants will answer a series of questions about the drug. We will test how the offer type affects their recall of the benefit and risk information, their perceptions of the benefits and risks of the drug, their perceptions of the incentive, and their behavioral intention to look for more information about the product and try the product. We will also test how mode of administration (online versus mall intercept) affects these variables.

TABLE 1—STUDY 1 DESIGN, MODE 1 (ONLINE, INTERNET PANEL)

Promotional offer (examples)	Type of advertisement		
	Efficacy and risk (prescription full)	Efficacy only (OTC)	None (prescription reminder)
Free trial offer	Online	Online	Online
Buy one, get one free	Online	Online	Online
Money off cost	Online	Online	Online
Money back guarantee	Online	Online	Online
Control: No offer	Online	Online	Online

TABLE 2—STUDY 1 DESIGN, MODE 2 (MALL INTERCEPT)

Promotional offer (examples)	Type of advertisement		
	Efficacy and risk (prescription full)	Efficacy only (OTC)	None (prescription reminder)
Free trial offer	Mall	Mall	Mall
Buy one, get one free	Mall	Mall	Mall
Money off cost	Mall	Mall	Mall
Money back guarantee	Mall	Mall	Mall
Control: No offer	Mall	Mall	Mall

Study 2: We propose to replicate the online mode from Study 1 in a second medical condition, high blood pressure.

TABLE 3—STUDY 2 DESIGN (ONLINE, INTERNET PANEL)

Promotional offer (examples)	Type of advertisement		
	Efficacy and risk (prescription full)	Efficacy only (OTC)	None (prescription reminder)
Free trial offer	Online	Online	Online
Buy one, get one free	Online	Online	Online
Money off cost	Online	Online	Online
Money back guarantee	Online	Online	Online
Control: No offer	Online	Online	Online

The test product in Study 2 will be for the treatment of high blood pressure. Participants will be consumers who have been told by a health care professional that they have high blood pressure. As with Study 1, this study is experimental in method: participants will be randomly assigned to read one ad version. After reading the ad, participants will answer a series of questions about the drug. We will test how the offer type affects perceived efficacy, perceived risk, behavioral intention, and recall of the benefit and risk information.

Data will be collected using an Internet protocol (Studies 1 and 2) and mall intercept (Study 1). Consumers who have insomnia or self-identify as meeting the criteria for insomnia will be recruited for Study 1 and consumers who have been told by a health care professional that they have high blood pressure will be recruited for Study 2. Because the task presumes basic reading abilities, all selected participants must speak and read English fluently. Participants must be 18 years or older. We will use analysis of variance and regressions to test hypotheses. Interviews are expected to last no more than 20 minutes. A total of 5,850 participants will be involved in the studies. This will be a one-time (rather than annual) collection of information.

In accordance with 5 CFR 1320.8(d), FDA published a 60-day notice for public comment in the **Federal Register** of September 22, 2010 (75 FR 57798) Docket No FDA–2010–N–0465). FDA received five comments. In the following section, we outline the observations and suggestions raised in the comments and provide our responses.

Two comments wrote in support of the study. We thank those who commented for their support of this research.

(Comment 1) One comment spoke against FDA conducting the research, saying (in part), ''[T]his survey is so unnecessary and such a waste of tax dollars * * * [W]e all know already how consumers take this information * * * [Y]ou can see from teh (sic) way the ads are presented what the big money big pharma con men are up to.''

(Response) We thank the citizen that took the time to comment on this study. The purpose of this study is to examine the potential impact on perceptions of product safety and efficacy of price incentives included in the body of a prescription drug advertisement. We disagree that the field has definitively answered the question of how consumers will ''take this information.'' As described in the background section of the study in Ref. 13 (Bhutada), one study that examined the impact of a price incentive in a prescription drug print advertisement found that consumers who saw an ad with a price incentive had favorable perceptions of the product and the ad, perceptions of the product and greater intentions to ask about the product. No differences were found in terms of perceived product risk. However, the study did not measure perceptions of product risk and benefit separately, or comprehension of risk and benefit information. In addition, we note that the findings of other academic studies in this field point in two different directions; research shows the presence of price incentives can foster beliefs about product quality or diminish beliefs about product quality. Therefore, the lack of information about the potential influence of price incentive offers on risk and benefit comprehension and the conflicting findings in the current literature make this is an opportune area in which to conduct an empirical study.

Two comments included multiple points about the study justification and design. We thank those who provided the comments for taking the time to provide detailed comments on our study and respond to their points in the paragraphs that follow.

(Comment 2) This comment suggested that the proposed study is not necessary for the proper performance of FDA's functions because no evidence of a serious or widespread problem with price incentives has been identified.

(Response) FDA disagrees with this assertion. While no ''serious or widespread problem'' has been previously identified, the Agency has observed increasing use of a variety of price incentive promotional offers in DTC print advertisements for

prescription drugs. The proposed study is intended to help the Agency better understand what effect, if any, these price incentive promotions have on consumer perceptions of risk and benefit information about the advertised prescription drugs. Improving FDA's understanding of these effects will assist the Agency in proactively meeting its responsibility to implement the FD&C Act. As already noted, both the FD&C Act and existing regulations issued to implement it are concerned with ensuring that prescription drug advertisements, including DTC print ads, provide appropriate risk and benefit information and are not otherwise misleading. (See, *e.g.,* 21 U.S.C. 352(n) and 321(n); 202.1(e);) The study will provide information to help the Agency assess how these mandates can be met where price incentives are employed, and is therefore ''necessary for the proper performance of FDA's functions * * *'' (44 U.S.C. 3508).

(Comment 3) This comment suggested that the inclusion of a truthful price incentive in an otherwise compliant DTC advertisement cannot render the advertisement false, misleading or lacking fair balance under the FD&C Act regardless of the psychological theories implicated. The comment further asserted that the inclusion of a truthful price incentive into an otherwise compliant DTC ad cannot serve as the basis for FDA to initiate regulatory action against the ad under the FD&C Act.

(Response) FDA believes that if the inclusion of a ''truthful'' price incentive in promotional material results in an unbalanced net impression of the drug product, that this would create a misleading impression of risk and benefit. As explained in FDA's draft guidance for industry entitled ''Presenting Risk Information in Prescription Drug and Medical Device Promotion,'' it is important to emphasize that when FDA evaluates the risk communication in a promotional piece, FDA looks not just at specific risk-related statements, but at the net impression—*i.e.,* the message communicated by all elements of the piece as a whole. The purpose of the evaluation is to determine whether the piece as a whole conveys an accurate and non-misleading impression of the benefits and risks of the promoted product. Manufacturers should therefore focus not just on individual claims or presentations, but on the promotional piece as a whole. A promotional communication that conveys a deceptive net impression of the product could be misleading, even if specific individual claims or presentations are not misleading (Ref. 14).

Thus, even if a price incentive included in an advertisement is in fact ''truthful,'' the net impression of the promotional piece as a whole can be unbalanced or misleading, which may in turn violate existing regulations. FDA proposes this study to help determine whether or not including a price incentive in a DTC print advertisement for a prescription drug can result in an unbalanced or otherwise misleading net impression of the drug product.

(Comment 4) This comment stated that the study may provide interesting information about the effect of price incentives on consumer attitudes toward a brand and useful information on optimal advertising practices, but it cannot provide information relevant to the statutory and regulatory requirements applicable to DTC advertising.

(Response) FDA disagrees that the study cannot provide information relevant to the statutory and regulatory requirements applicable to DTC advertising. As noted previously, this study will examine issues that are well within FDA's regulatory authority—whether the inclusion of price incentives in prescription drug ads impacts a consumer's understanding of the risk and benefit information of the drug. In particular, we are interested to learn whether the inclusion of price incentives can interfere with the fair balance of information and cause a misleading net impression. Knowing whether or not misleading impressions result is a prerequisite to considering how any such misleading effects should be addressed.

(Comment 5) One comment contends that the citation to § 202.1(e)(6)(i) included in the 60-day notice (75 FR 57798) is inaccurately truncated, and further asserts that the only indirect claims and representations subject to this regulation are those made through use of literature, quotations, or other references. The comment argues that because price incentives do not involve the use of published or unpublished literature, quotations or other references, this provision does not provide a legal basis for the proposed study or for the Agency to regulate the heuristic effects (if any) of price incentives.

(Response) In response to the comment's concern that FDA inaccurately truncated the regulation, and to avoid misunderstanding, FDA has included a longer excerpt of § 202.1(e)(6) in this notice than was included in the prior notice. However, FDA disagrees with the comment's conclusion about the justification for the proposed study.

As an initial matter, as noted, FDA has authority under section 502(n) of the FD&C Act to specify by regulation how to present the brief summary of risk and benefit information required in prescription drug advertisements. This authority, together with FDA's authority to conduct research relating to drugs (21 U.S.C. 393(d)(2)(c)), amply supports the proposed study. FDA need not establish that it would bring enforcement actions under § 202.1(e)(6)(i) or any other specific provisions of the present regulations in order to justify conducting a study that is intended to provide a better empirical understanding of the impact, if any, on risk and benefit information communication where price incentives are included in DTC print advertisements for prescription drugs. The results of this study will help to inform FDA's review of, and regulatory policies for, prescription drug advertising subject to section 502(n) of the FD&C Act.

Turning specifically to § 202.1(e)(6), we disagree with the comment's construction of that regulation. As indicated in the prefatory text of § 202.1(e)(6), the specifics that follow are ''among other reasons'' that an advertisement for a prescription drug is false, lacking in fair balance, or otherwise misleading, indicating that these are examples and not an exclusive list as the comment assumes. In the same vein, § 202.1(e)(6)(i) states that an advertisement may not contain: A representation or suggestion, not approved or permitted for use in the labeling, that a drug is better, more effective, useful in a broader range of conditions or patients (as used in *§ 202.1 ''patients'' means humans and in the case of veterinary drugs, other animals*) safer, has fewer, or less incidence of, or less serious side effects or contraindications than has been demonstrated by substantial evidence or substantial clinical experience (as described in paragraphs (e)(4)(ii)(*b*) and (e)(4)(ii)(*c*) of *§ 202.1*) whether or not such representations are made by comparison with other drugs or treatments, and whether or not such a representation or suggestion is made directly or through use of published or unpublished literature, quotations, or other references.

This phrasing prohibits ''a representation or suggestion, not approved or permitted for use in the labeling'' even if the representation or suggestion is not made via the means given as examples in the regulation. Thus, FDA has consistently, and

appropriately, examined both direct and indirect representations and suggestions when examining the net impression presented in a prescription drug advertisement.

(Comment 6) One comment asserts that the citation to § 202.1(e)(6)(xviii) is inappropriate because this regulation concerns only the presentation of heading and subheadings and FDA is studying the mere fact that a price incentive has been made, not the way in which headline, subheadline, or pictorial or other graphic matter are used to communicate that price incentive.

(Response) FDA does not need to rely on § 202.1(e)(6)(xviii) to justify the proposed study therefore we have removed the reference to this regulation.

(Comment 7) One comment contends that the scientific research identified does not provide justification for conducting the study nor does it provide support for the proposition that promotional offers have the capacity to act as a cue or a heuristic with respect to prescription drugs.

(Response) We acknowledge that there is little research on the impact of price incentive offers in prescription drug advertising. The paucity of existing research is a primary motivation for the proposed research. The question of whether or not a price incentive offer can affect perceptions of and recall of prescription drug efficacy and risk is an empirical one and will be tested in the proposed study.

(Comment 8) One comment directly questioned the need to conduct this study in light of the results found by Bhutada *et al.* (Ref. 13; 2009). Specifically, the comment asserts that the study found no effect of a price incentive on consumer comprehension of risks or benefits of the prescription drug.

(Response) As noted previously, the Bhutada *et al.* study did not measure perceptions of product risk and benefit separately. Perceptions of product risk and benefit were measured on a scale with risk at one end and benefits at the other, so it was not possible to assess the effects of the price incentive on risks and benefits separately. Further, comprehension of risk and benefit information was not measured at all, so it is impossible to determine from this study if there was an effect on comprehension. The current proposed study will extend this initial study by measuring perceived product risk and benefit separately, measuring risk and benefit comprehension, investigating a variety of promotional offers, recruiting a wider range of the target audience from malls and online, and by measuring traits that may predispose individuals to be susceptible to influence in their perceptions of risk or benefit by a price incentive.

(Comment 9) One comment asserts that heuristic effects are not claims, either expressed or implied, and since reminder ads do not include any safety or effectiveness information, there is no basis even to argue that they may preempt consumers from thinking carefully about the product information contained in the reminder ad.

(Response) It is an empirical question whether price incentives operate as a heuristic cue and further, whether those cues impact perceptions of product characteristics (in this case, the product's efficacy and risk). As the literature on heuristic judgment demonstrates, individuals are frequently faced with situations in which they are required to make judgments using incomplete information and are able to do so (Refs. 15 and 16). Therefore, it is reasonable to test whether an incentive can influence this judgment in the context of both a full-product and a reminder DTC prescription drug advertisement.

(Comment 10) One comment asserts that the regulation explicitly permits companies to include information about price within reminder ads. The comment argues that because price incentives pertain to price, this regulation provides no legal basis for the proposed study or for the Agency to regulate price incentives contained in reminder ads.

(Response) FDA acknowledges that current regulations permit reminder ads to include price information under defined conditions, while remaining exempt from the requirement for a ''true statement of information in brief summary.'' FDA does not intend to use the results of this study to regulate drug prices. In this study, FDA is only seeking to assess the effects, if any, of the presence of various offers in DTC advertisements on consumers' perceptions of product risks and benefits. As stated previously, we will use ''reminder ads'' in this study to understand the effect of offers on consumer perceptions of safety and efficacy. Reminder ads present a useful tool in determining this effect as broad safety and efficacy information is not otherwise provided in such advertisements. Results of this preliminary study will help FDA in its assessment of drug ads and in broader assessment of its regulatory policy for effectuating section 502(n) of the FD&C Act and other legal authorities governing drug promotion.

(Comment 11) One comment said that FDA has not established standards by which to judge the results of the study. This comment asserted that even if consumers have a more positive view of the safety or effectiveness of a product with a price incentive compared to one that does not, this does not automatically deem the ad false, lacking in fair balance, or otherwise misleading.

(Response) To judge the results of our study, we take our cue from the related field of research conducted on potentially misleading claims and employed frequently by the Federal Trade Commission in their investigations of advertising claims (Ref. 17). In this research, an ad with the content at issue removed serves as an appropriate experimental control. Based on this precedent, an ad without a price incentive is an appropriate control in this study.

(Comment 12) One comment stated that unless FDA can establish that differences in perceptions of safety or efficacy are not due to differences in price and/or the size of the price incentive, any restrictions or requirements on price incentives will require FDA to regulate prescription drug pricing.

(Response) As previously acknowledged, the FD&C Act does not provide FDA with authority to regulate prescription drug pricing and that is not the purpose or intended outcome of this study. The purpose of the currently proposed study is to investigate how different purchase incentives, including ones that may affect the actual price of the product, may operate in the context of a DTC ad. If we find that some types or all types of offers do influence viewers' comprehension and perceptions of safety or effectiveness, then, as suggested by this comment, the next logical step may be to conduct further study to disentangle the effects of the presence of the offer itself and the magnitude of the price incentives. In one research study we do not have the ability to examine all variables of interest, however, and we believe the variables we have chosen for the proposed study are reasonable.

(Comment 13) One comment asserted that by equating cues and inference rules with product claims, FDA risks imposing restrictions on DTC advertising based on potential deception rather than actual deception, which the comment argues is fraught with risk under the First Amendment. This comment cites the following from *Washington Legal Foundation* v. *Henney* (56 F. Supp. 2d 81, 85 (D.D.C. 1999)), ''FDA may not restrict speech based on its perception that the speech

could, may, or might mislead.'' The comment urges FDA to carefully consider First Amendment issues before proceeding with the study.

(Response) We have carefully considered First Amendment issues in designing this study. The *Washington Legal Foundation* v. *Henney* case cited by the comment notes that ''the government must demonstrate that the restricted speech, by nature, is more likely to mislead than to inform'' (*Id.* at 85). It is the goal of the proposed study to investigate whether a price incentive may or may not be ''more likely to mislead than to inform.''] Our participants will view a fictitious but realistic DTC print ad and answer questions about that ad. From their answers we will be able to determine their responses to the information in the ad. Thus, we will measure whether the ad is actually misleading and not potentially misleading. The experimental control afforded by participants' random assignment to different experimental conditions ensures that we will be able to pinpoint the source of any differences in responses to ad variations by comparing responses of participants who see the variables of interest (in this case, the offer) versus those who do not.

(Comment 14) One comment stated that the proposed study appears to be designed more to assess the effect of coupons on brand attitudes and consumer impressions and does not appear to be tailored to assess the effect of price incentives on statutory and regulatory requirements. In other words, the comment argues that FDA has no regulatory authority to manage or regulate consumer attitudes or impressions toward a brand.

(Response) As noted previously, the study is designed to determine whether price incentive offers embedded in prescription drug ads can result in a misleading net impression of risk and benefit, which may in turn violate existing regulations under the FD&C Act. We will measure the effect of the offer on consumer's understanding of the product's efficacy and safety and the net impression of the product created by a promotional piece in regards to that piece alone, which will inform our review of DTC prescription drug advertising generally. FDA does not intend to regulate or manage consumer attitudes or impressions towards a particular brand.

(Comment 15) One comment questioned the utility of including the reminder and OTC test arms in the study as these advertisements do not include both safety and effectiveness information.

(Response) As stated previously, individuals are frequently faced with situations in which they are required and able to make judgments using incomplete information. As detailed previously, the inclusion of a prescription reminder ad and an OTC ad provides experimental control. We will compare perceptions of the product attributes among participants who see: (1) Full risk and efficacy information (full ad), (2) only efficacy information (OTC ad), and (3) neither risk nor efficacy information (prescription reminder ad). The question of whether an incentive can influence this judgment in the context of a DTC prescription drug advertisement is the empirical question we are addressing in the proposed study.

(Comment 16) Two comments requested FDA provide more information on the study population and study design including the primary research questions, stimuli, endpoints, and action standards.

(Response) The proposed questionnaire has been and continues to be available upon request. We refer to pages 57800 and 57801 of the 60-day notice (75 FR 57798) where the study design was described. We have described the primary research questions in more detail in this 30-day notice. Specific hypotheses and the analysis plan are included in this document.

(Comment 17) One comment requested that FDA specify the types of advertisements to be used in the study (*i.e.,* spread, gatefold, ⅓ page ad). Another comment requested that FDA engage the services of an advertising agency that specializes in the development of DTC print advertisements. Further, the comment asserted that the location of the promotional offer may have an impact on consumer perceptions of product risks and benefits and requested FDA define the location of the offer and clarify if it will be varied in the test ads.

(Response) The full product DTC ad will be two pages, including a brief summary. The OTC ad and reminder ad will each be one page. We have contracted with an organization that produces realistic ads and stimuli to ensure that we will show respondents realistic materials. The location of the promotional offer will be standardized as much as possible across all test conditions and will be incorporated in such a way as to not obscure the description of either the risks or benefits in the full product ad.

(Comment 18) One comment requested FDA identify and study more general disclosures that are not directly related to safety or effectiveness info, such as ''consult with a physician to discuss whether this drug is right for you.''

(Response) We appreciate the comment about widening the scope of the disclosures to be studied. Based upon the suggestion of our peer reviewers, we have changed the focus of the second study to examine a second medical condition and will not be investigating disclosures as part of this initial study. We encourage other interested entities to engage in research on disclosures.

(Comment 19) One comment requested that the study population be limited to individuals who have been diagnosed with the medical condition of interest and exclude those merely 'at risk' of developing the condition because those who do not have the medical condition may be much less attentive to the information in the ad and thus skew the study results. In another paragraph, the same comment questioned the need to conduct the proposed study in the target population since doing so would not yield different results from Bhutada *et al.* (2009) who did not use diagnosed individuals.

(Response) As these two suggestions are contradictory, we offer our reasoning behind selecting participants in Study 1 who are either diagnosed or fit the criteria for diagnosis of insomnia (formerly referred to as ''at risk''). One purpose of a purchase incentive is to encourage new users to try a product (Ref. 18). Similarly, the first of the Pharmaceutical Research and Manufacturers of America's (PhRMA) guiding principles on direct to consumer advertising (Ref. 19) states that ''* * * DTC advertising of prescription medicines can benefit the public health by * * * motivating patients to contact their physicians and engage in a dialogue about health concerns * * *'' Inclusion of an incentive might encourage a consumer who recognizes the symptoms described in the advertisement to discuss the condition with a doctor or other health care professional. Thus, we conclude that both diagnosed patients and those individuals who self-report meeting the diagnostic criteria for the advertised medical condition but have not yet been diagnosed are a valid sample for Study 1. We are limiting our Study 2 sample to individuals who have been diagnosed with high blood pressure by a health care professional.

(Comment 20) One comment requested that demographic information such as age, education, income, ethnicity, race, a baseline assessment of health literacy, and whether the

consumer is currently being treated with a prescription drug for the condition being studied be included in the information collection.

(Response) Demographic and health literacy information will be collected.

(Comment 21) One comment requested that FDA use prudence when broadly interpreting the results from this study and developing subsequent guidance based on these study results, and requested that the results of the study not be applied beyond print ads or, alternatively, to expand the study to include Internet promotion.

(Response) At this time we cannot expand the study to encompass Internet promotion. We concur that there are media-specific factors that influence information processing between static (*e.g.,* print) and dynamic (*e.g.,* video) platforms, and will note that our study was conducted with print ads in our interpretation of the results. However, we contend that the cognitive processes used in understanding and interpreting incentive information are likely to apply across promotional platforms.

(Comment 22) Two comments mentioned that the study does not assess how consumer perceptions of product risks and benefits are translated into a discussion with their health care provider. One comment stated that because these products can only be purchased after a discussion with a health care provider, the study be redesigned so that consumer perceptions are measured after a discussion with a health care provider.

(Response) We concur that this study does not address behaviors, such as how ad perceptions are translated into a discussion with a health care provider. As noted previously, one purpose of DTC advertising is to motivate consumers to engage in a discussion with their health care provider about health concerns. Another purpose, supported by research findings (Refs. 20 and 21), is to increase awareness of available treatments. DTC advertising does not exist solely in the confines of a doctor's office; rather, DTC advertising targets consumers outside of a doctor's office, with the goal of prompting consumers to ask their physicians about the product. In deciding whether or not to discuss a particular product with their health care provider, consumers presumably are engaging in some sort of judgment about the product being promoted. Therefore, clear communication of risks and benefits is needed for consumers before a consultation with a physician, and it is valid to measure these impressions.

(Comment 23) One commenter requested that FDA provide clarity on the timing of this study vis-a-vis other FDA DTC studies and make available the results of previous DTC studies on the Division of Drug Marketing Advertising and Communications (DDMAC) Research Web page.

(Response) The timing of this study is not dependent on other research currently underway. We have taken steps to publish reports from our previous research on the DDMAC Web page (see *http://www.fda.gov/AboutFDA/CentersOffices/CDER/ucm090276.htm*). When the current project is concluded, we will report on the study.

FDA estimates the burden of this collection of information as follows:

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Screener	8,500	1	8,500	.03 (2 minutes)	283
Pretests	1,000	1	1,000	.33 (20 minutes)	333
Study 1: Online	1,950	1	1,950	.33 (20 minutes)	650
Study 1: Mall intercept	1,950	1	1,950	.33 (20 minutes)	650
Study 2	1,950	1	1,950	.33 (20 minutes)	650
Total	15,350				2,566

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

II. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register.**)

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Dated: September 12, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–23926 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0620]

Draft Guidance for Industry on Self-Selection Studies for Nonprescription Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Self-Selection Studies for Nonprescription Drug Products.'' The draft guidance is intended to provide recommendations to industry on the design of self-selection studies for nonprescription drug products. Self-selection studies are conducted to ensure that consumers are able to make the correct decision to use, or not use, a nonprescription drug product based on their personal medical situation.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 18, 2011.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lesley-Anne Furlong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5420, Silver Spring, MD 20993–0002, 301–796–2080.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Self-Selection Studies for Nonprescription Drug Products.'' This draft guidance is intended to provide recommendations to industry involved in the development of self-selection studies for nonprescription drug products. The draft guidance discusses general concepts to be considered in the design and conduct of a self-selection study. The draft guidance also incorporates advice obtained from the Nonprescription Drugs Advisory Committee at a meeting held on September 25, 2006, which considered issues related to the analysis and interpretation of consumer studies conducted to support the marketing of nonprescription drug products.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on self-selection studies for nonprescription drug products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: September 13, 2011.

Leslie Kux,

Acting Assistant Commission for Policy.

[FR Doc. 2011–23927 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Tobacco Products Scientific Advisory Committee (TPSAC).

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 2, 2011, from 9 a.m. to 5 p.m., and on November 3, 2011, from 8 a.m. to 5 p.m.

Location: Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd. rm. 020B, Rockville, MD 20850, 1–877–287–1373.

Contact Person: Caryn Cohen, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose option 4), e-mail: *TPSAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will continue the discussions of issues related to the nature and impact of the use of dissolvable tobacco products on the public health, including such use among children, as part of TPSAC's required report to the Secretary of Health and Human Services. Discussion will include such topics as the composition and characteristics of dissolvable tobacco products, product use, potential health effects, and marketing.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: On November 2, 2011, from 1 p.m. to 5 p.m., and on November 3, from 8 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 19, 2011. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 noon on November 3, 2011. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 11, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 12, 2011.

Closed Committee Deliberations: On November 2, 2011, from 9 a.m. to 12 noon, the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)). This portion of the meeting must be closed because the committee will be discussing trade secret and/or confidential data provided by the tobacco companies regarding dissolvable tobacco products.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Caryn Cohen at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 13, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–23868 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 26 and 27, 2011, from 8 a.m. to 6 p.m.

Location: Hilton Washington, DC, North/Gaithersburg, salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: James Swink, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, e-mail: *james.swink@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for

up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On October 26, 2011, the committee will discuss, make recommendations, and vote on information related to the premarket approval application sponsored by AtriCure, Inc., for the AtriCure Synergy Ablation System to be used for the treatment of atrial fibrillation in patients who are undergoing open concomitant cardiac surgery. The AtriCure Synergy Ablation System consists of the following:

- The AtriCure Isolator Synergy Handpieces (models OLL2 and OSL2), which resemble surgical clamps, include a syringe-type grip handle/actuator, connected by a cylindrical shaft to a pair of grasping jaws with electrodes on each jaw. The electrodes deliver radiofrequency (RF) energy to the tissue grasped by the jaws.
- The Ablation and Sensing Unit is an RF generator used to power the Isolator Synergy Handpieces.
- The Isolator Switch Matrix is an accessory interface module allowing the Isolator Synergy Handpieces to connect to the RF generator.

On October 27, 2011, the committee will discuss, make recommendations, and vote on information related to the premarket approval application for the Medtronic Ablation Frontiers Cardiac Ablation System sponsored by Medtronic, Inc. The Medtronic Ablation Frontiers Cardiac Ablation System is a catheter-based device developed for the treatment of atrial fibrillation. The system consists of the following:

- The Pulmonary Vein Ablation Catheter, which is designed to create lesions in the left atrium via five pairs of electrodes to isolate the pulmonary veins. It has a deflectable distal end and bidirectional steering to aid in positioning the catheter appropriately.
- The Multi-Array Septal Catheter, which is designed to create lesions on the septal wall of the left atrium via six pairs of electrodes. It is not steerable and is intended to be used in a transseptal approach.
- The Multi-Array Ablation Catheter, which is designed to create ''X''-like lesions in the left and/or right atrium via four pairs of electrodes. It has a deflectable distal segment and bidirectional steering within a single plane.
- The GENius Multi-Channel RF Ablation Generator.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 19, 2011. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on October 26 and 27. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 11, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 13, 2011.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 13, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–23875 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0352]

Prescription Drug User Fee Act IV Information Technology Plan

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of an updated information technology (IT) plan entitled ''PDUFA IV Information Technology Plan'' (updated plan) to achieve the objectives defined in the Prescription Drug User Fee Act (PDUFA) Performance Goals. This plan is intended to provide regulated industry and other stakeholders with information on FDA's vision and plan for improving the automation of business processes and maintaining information systems that support the process for the review of human drug applications. The FDA is publishing the updated plan for comment to allow the public to provide feedback as the Agency moves towards a fully electronic standards-based submission and review environment.

DATES: Submit electronic or written comments on the updated plan by November 3, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–N–0352, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):*

Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2008–N–0352. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Alfred Kempski, Office of the PDUFA Business Program Manager, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1127, Silver Spring, MD 20993–0002, 301–796–1999.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of an updated IT plan entitled ''PDUFA IV Information Technology Plan.'' This plan will meet one of the performance goals agreed to under the 2007 reauthorization of PDUFA IV (Title I of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85)). Under section XIV of the PDUFA Performance Goals, FDA agreed to develop, periodically update, and publish for comment an IT plan for achieving the objectives defined in section XIV, Information Technology Goals, of the PDUFA Performance Goals (see *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm119243.htm*). This plan is intended to provide regulated industry and other stakeholders with information on FDA's vision and plan for improving the automation of business processes and maintaining information systems that support the process for the review of human drug applications, to achieve the objectives defined in section XIV of the PDUFA Performance Goals. The objectives of the PDUFA IV IT Goals are to move FDA towards the long-term goal of an automated standards-based information technology environment for the exchange, review, and management of information supporting the process for the review of human drug applications throughout the product life cycle.

In the **Federal Register** of June 30, 2008 (73 FR 36880), FDA issued a notice announcing the availability of an earlier version of the IT plan entitled ''Prescription Drug User Fee Act (PDUFA) IV Information Technology Plan'' (June 2008 plan). This updated plan revises the June 2008 plan; it communicates the progress and strategic changes for key initiatives that illustrate the accomplishment of near-term objectives and describes FDA's strategy for meeting the long-term goal of a fully electronic submission and review environment. The sections that have been revised are identified in the Revision Index (after the Table of Contents) in the updated plan.

FDA conducts an annual IT assessment to measure performance against the IT plan. The 2010 Annual IT Assessment is available at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm183308.htm.*

II. Electronic Access

Persons with access to the Internet may obtain the updated plan at *http://www.regulations.gov.*

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 12, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–23923 Filed 9–16–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–0165.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the Agency; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (OMB No. 0915–0047)—[Extension]

The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of rights and responsibilities, know the history and status of each loan account in order to pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. Schools are free to use improved information technology to manage the information required by the regulations.

The estimated total burden is 49,489 hours. The annualized burden estimates are as follows:

RECORDKEEPING REQUIREMENTS

Regulatory/section requirements	Number of recordkeepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2), Documentation of Cost of Attendance	435	1.17	509
57.208(a), Promissory Note	435	1.25	544
57.210(b)(1)(i), Documentation of Entrance Interview	435	1.25	544
57.210(b)(1)(ii), Documentation of Exit Interview	*477	0.33	157
57.215(a) & (d), Program Records	*477	10	4,770
57.215(b), Student Records	*477	10	4,770
57.215(c), Repayment Records	*477	18.75	8,944
HPSL Subtotal			20,238
NSL Program:			
57.306(b)(2)(ii), Documentation of Cost of Attendance	304	0.3	91
57.308(a), Promissory Note	304	0.5	152
57.310(b)(1)(i), Documentation of Entrance Interview	304	0.5	152
57.310(b)(1)(ii), Documentation of Exit Interview	*486	0.17	83
57.315(a)(1) & (a)(4), Program Records	*486	5	2,430
57.315(a)(2), Student Records	*486	1	486
57.215(b)(3), Repayment Records	*486	2.51	1,220
NSL Subtotal			4,614

*Includes active and closing schools.
HPSL data include active and closing Loans for Disadvantaged Students (LDS) program schools.

REPORTING REQUIREMENTS

Regulatory/section requirements	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
HPSL Program:					
57.206(a)(2), Student Financial Aid Transcript	4,600	1	4,600	0.25	1,150
57.208(c), Loan Information Disclosure	435	68.73	29,898	0.0833	2,490
57.210(b)(1)(i), Entrance Interview	435	68.73	29,898	0.167	4,993
57.210(b)(1)(ii), Exit Interview	*477	12	5,724	0.5	2,862
57.210(b)(1)(iii), Notification of Repayment	*477	30.83	14,706	0.167	2,456
57.210(b)(1)(iv), Notification During Deferment	*477	24.32	11,601	0.0833	966
57.210(b)(1)(vi), Notification of Delinquent Accounts	*477	10.28	4,904	0.167	819
57.210(b)(1)(x), Credit Bureau Notification	*477	8.03	3,830	0.6	2,298
57.210(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3	60
57.211(a), Disability Cancellation	10	1	10	0.75	8
57.215(a)(2), Administrative Hearings	0	0	0	0	0
57.215(a)(d), Administrative Hearings	0	0	0	0	0
HPSL Subtotal					18,102
NSL Program:					
57.306(a)(2), Student Financial Aid Transcript	4,100	1	4,100	0.25	1,025
57.310(b)(1)(i), Entrance Interview	304	23.51	7,147	0.167	1,193
57.310(b)(1)(ii), Exit Interview	*486	3.77	1,832	0.5	916
57.310(b)(1)(iii), Notification of Repayment	*486	6.18	3,003	0.167	501
57.310(b)(1)(iv), Notification During Deferment	*486	0.65	316	0.083	26
57.310(b)(1)(vi), Notification of Delinquent Accounts	*486	4.61	2,240	0.167	374
57.310(b)(1)(x), Credit Bureau Notification	*486	8.3	4,033	0.6	2,420
57.310(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3.5	70
57.311(a), Disability Cancellation	10	1	10	0.8	8
57.315(a)(1)(ii), Administrative Hearings	0	0	0	0	0
57.316(a)(d), Administrative Hearings	0	0	0	0	0
NSL Subtotal					6,535

*Includes active and closing schools.

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: September 13, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–23892 Filed 9–16–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 Site Visit (2012/01).

Date: October 24–26, 2011.

Time: 8 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Springhill Suites by Marriott, Pittsburgh Southside Works, 2950 South Water Street, Pittsburgh, PA 15203.

Contact Person: John K. Hayes, PhD, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Health Disparities SBIR 2012/01.

Date: November 7, 2011.

Time: 11 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NIBIB, DEM II, 6707 Democracy Blvd, 900, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Ruixia Zhou, PhD, Scientific Review Officer, 6707 Democracy Boulevard, Democracy Two Building, Suite 957, Bethesda, MD 20892, 301–496–4773, *zhour@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; 2012–01 K-Award Review Meeting.

Date: November 16, 2011.

Time: 11 a.m. to 5 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: John K. Hayes, PhD, Scientific Review Officer, 6707 Democracy Boulevard, Room 959, Bethesda, MD 20892, 301–451–3398, *hayesj@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Development of Multiscale Models (U01).

Date: November 17, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Manana Sukhareva, PhD, Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, Suite 959, Bethesda, MD 20892, 301–451–3397, *sukharem@mail.nih.gov.*

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24031 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 Human Genome Research Institute Initial Review Group; Genome Research Review Committee; Centers of Excellence in Genomic Science (CEGS).

Date: November 3–4, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, PhD, Scientific Review Officer, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24026 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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 on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: October 27–28, 2011.

Closed: October 27, 2011, 10 a.m. to 10:30 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Open: October 27, 2011, 10:30 a.m. to 11 a.m.

Agenda: Reports from institute staff.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: October 27, 2011, 11 a.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: October 28, 2011, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Contact Person: Andrew J. Griffith, PhD, MD, Director, Division of Intramural Research, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 1A13, Rockville, MD 20850, 301–496–1960, *griffita@nidcd.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.

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/groups/bsc/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24025 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R21/R33.

Date: October 18, 2011.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Kausik Ray, Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: Communication Disorders Review Committee.

Date: October 20–21, 2011.

Time: October 20, 2011, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Time: October 21, 2011, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Susan Sullivan, PhD, Scientific Review Branch, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Suite 400C, Bethesda, MD 20892, 301–496–8683, *sullivas@mail.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; T32/T35 Training Grant Review.

Date: October 25, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kausik Ray, Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special EmphasisPanel; R03—Chemical Senses.

Date: November 2, 2011.

Time: 9:30 a.m. to 11:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Kausik Ray, Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; R03—VSL.

Date: November 3, 2011.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call.)

Contact Person: Shiguang Yang, DVM, PhD, Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Information is also available on the Institute's/Center's home page: *http://www.nidcd.nih.gov/about/groups/cdrc/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24024 Filed 9–16–11; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Chemical Approaches to

Target Validation for Drug Resistant Pathogens.

Date: October 13, 2011.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call.)

Contact Person: Yong Gao, PhD, Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID, 6700B Rockledge Drive, Room 3127, Bethesda, MD 20892, 301–443–8115, *gaol2@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Chemical Approaches to Target Validation for Drug Resistant Pathogens.

Date: October 19, 2011.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call.)

Contact Person: Yong Gao, PhD, Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID, 6700B Rockledge Drive, Room 3127, Bethesda, MD 20892, 301–443–8115, *gaol2@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Chemical Approaches to Target Validation for Drug Resistant Pathogens.

Date: October 21, 2011.

Time: 11 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call.)

Contact Person: Yong Gao, PhD, Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID, 6700B Rockledge Drive, Room 3127, Bethesda, MD 20892, 301–443–8115, *gaol2@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24016 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Tumor Cell Biology Study Section, October 10, 2011, 8 a.m. to October 11, 2011, 5 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015 which was published in the **Federal Register** on September 7, 2011, 76 FR 55402–55403.

The meeting will be held October 10, 2011 from 8 a.m. to 5 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24011 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Gene Therapy Resource Program LentiVirus Vector Production.

Date: October 7, 2011.

Time: 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate contract proposals.

Plae: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda MD 20814.

Contact Person: Tony L Creazzo, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Gene Therapy Resource Program Pharmacology/Toxicology Core.

Date: October 7, 2011.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tony L Creazzo, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Gene Therapy Resource Program PreClinical Vector Production Core.

Date: October 7, 2011.

Time: 11:30 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tony L Creazzo, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Gene Therapy Resource Program Adeno-Associated Virus Vector Production Core.

Date: October 7, 2011.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tony L Creazzo, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Gene Therapy Resource Program Clinical Coordinating Center.

Date: October 7, 2011.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tony L Creazzo, PhD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892–7924, 301–435–0725, *creazzotl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 13, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–24005 Filed 9–16–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3328–EM; Docket ID FEMA–2011–0001]

New York; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of New York (FEMA–3328–EM), dated August 26, 2011, and related determinations.

DATES: *Effective Date:* September 5, 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 emergency is closed effective September 5, 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.)

Dated: September 12, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–23915 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3333–EM; Docket ID FEMA–2011–0001]

New Hampshire; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of New Hampshire (FEMA–3333–EM), dated August 27, 2011, and related determinations.

DATES: *Effective Date:* September 6, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this emergency is closed effective September 6, 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. 2011–23990 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3329–EM; Docket ID FEMA–2011–0001]

Virginia; Amendment No. 2 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the Commonwealth of Virginia (FEMA–3329–EM), dated August 26, 2011, and related determinations.

DATES: *Effective Date:* September 4, 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 emergency is closed effective September 4, 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. 2011–23991 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3334–EM; Docket ID FEMA–2011–0001]

Rhode Island; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Rhode Island (FEMA–3334–EM), dated August 27, 2011, and related determinations.

DATES: *Effective Date:* August 29, 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 emergency is closed effective August 29, 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. 2011–23989 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3338–EM; Docket ID FEMA–2011–0001]

Vermont; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for the State of Vermont (FEMA–3338–EM), dated August 29, 2011, and related determinations.

DATES: *Effective Date:* September 2, 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 emergency is closed effective September 2, 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.

September 12, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–23914 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4017–DR; Docket ID FEMA–2011–0001]

Puerto Rico; Amendment No. 3 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 Puerto Rico (FEMA–4017–DR), dated August 27, 2011, and related determinations.

DATES: *Effective Date:* September 13, 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 Puerto Rico 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 August 27, 2011.

Fajardo, Gurabo, Las Piedras, Naguabo, Naranjito, Río Grande, San Lorenzo, Trujillo Alto, Vega Baja, Vieques, and Villalba Municipalities for Individual Assistance (already designated for Public Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: September 12, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–23913 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4019–DR; Docket ID FEMA–2011–0001]

North Carolina; Amendment No. 8 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 Carolina (FEMA–4019–DR), dated August 31, 2011, and related determinations.

DATES: *Effective Date:* September 13, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Carolina is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of August 31, 2011.

Vance County for Public Assistance, including direct federal assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially

Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: September 12, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–23912 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4025–DR; Docket ID FEMA–2011–0001]

Pennsylvania; 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 Pennsylvania (FEMA–4025–DR), dated September 3, 2011, and related determinations.

DATES: *Effective Date:* September 12, 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 Pennsylvania is hereby amended to include the Individual Assistance program for 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 September 3, 2011.

Bucks, Delaware, Lehigh, Luzerne, Monroe, Montgomery, and Philadelphia Counties for Individual Assistance.

Chester, Northampton, Sullivan, and Wyoming Counties for Individual Assistance (already designated for Public Assistance, including direct Federal assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: September 12, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–23910 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Federal Advisory Committee Meeting.

SUMMARY: The Board of Visitors for the National Fire Academy (Board) will meet on October 14 and 15, 2011. The meeting will be open to the public.

DATES: The meeting will take place Friday, October 14, 2011, from 8:30 a.m. to 5 p.m. EDT; and Saturday, October 15, 2011, from 9 a.m. to 1:30 p.m. EDT. Please note that the meeting may close early if the Board has completed its business.

ADDRESSES: The meeting will be held at the National Emergency Training Center, Building H, Room 300, Emmitsburg, Maryland. Members of the public who wish to obtain details on how to gain access to the facility and directions may contact Ruth MacPhail as listed in the **FOR FURTHER INFORMATION CONTACT** section by close of business October 12, 2011. For information on services for individuals with disabilities or to request special assistance, contact Ruth MacPhail as soon as possible. A picture identification is needed for access.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Board as listed in the **SUPPLEMENTARY INFORMATION** section. Comments must be submitted in writing no later than October 12, 2011, and must be identified by docket ID FEMA–2008–0010 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail*: *FEMA–RULES@dhs.gov.* Include the docket ID in the subject line of the message.
- *Fax:* 703–483–2999.
- *Mail:* Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the Board, go to *http://www.regulations.gov.*

A public comment period will be held during the meeting on October 14, 2011, from 4:00 p.m. to 4:30 p.m. EDT, and speakers will be afforded 5 minutes to make comments. Please note that the public comment period may end before the time indicated, following the last call for comments. Contact the individual listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Ruth MacPhail, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, telephone (301) 447–1117, fax (301) 447–1173, and e-mail *ruth.macphail@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Purpose of the Board

The purpose of the Board is to review annually the programs of the National Fire Academy (Academy) and advise the Administrator of the Federal Emergency Management Agency (FEMA), through the United States Fire Administrator, regarding the operation of the Academy and any improvements therein that the Board deems appropriate. The Board makes interim advisories to the Administrator of FEMA, through the United States Fire Administrator, whenever there is an indicated urgency to do so in fulfilling its duties. In carrying out its responsibilities, the Board examines Academy programs to determine whether these programs further the basic missions which are approved by the Administrator of FEMA, examines the physical plant of the Academy to determine the adequacy of the Academy's facilities, and examines the funding levels for Academy programs. The Board submits an annual report through the United States Fire Administrator to the Administrator of FEMA, in writing. The report provides detailed comments and

recommendations regarding the operation of the Academy.

Agenda

On the first day of the meeting, the Board will elect a Chairperson and Vice Chairperson for fiscal year (FY) 2012, and will review and approve the minutes of the July 12, 2011 meeting. The Board will review Academy program activities, including instructor-led online course pilot tests, current curriculum developments, and anticipated FY 2012 curriculum developments. There will be an introduction of new staff members and the Academy will report on the revamped National Professional Development Matrix, a standard career development education and training model, which the Academy has modified to tie together the various accreditation criteria, voluntary professional standards, and higher education curricula. The modification includes adding the National Fire Protection Association job proficiency requirement titles and the Center for Professional Excellence standards.

There will be a discussion on the status of the conversion of courses to bachelor's-degree equivalent educational outcomes by adding the National Fire Protection Association job proficiency requirement titles and the Center for Professional Excellence standards. The discussion will include a review of course objectives and the outlines for 13 courses that are being rewritten and will be added to the Fire and Emergency Services Higher Education (FESHE) Web site. The Academy will report on the Atlanta Fire Department and North Carolina workshops which are being held to explain the model curricula and professional development matrix. The status of the FESHE Institutional Recognition and Certificate program, which is under active review by the North American Fire Training Directors for possible revision and approval, will be reviewed. The Academy will report on the status of Training Resources and Data Exchange (TRADE)/FESHE Adobe Connect sessions, including discussion of Academy-facilitated work sessions which will be held in each of 10 FEMA regions.

The Board will attend Annual Ethics Training, provided by FEMA's Office of Chief Counsel, and will discuss the status of deferred maintenance and capital improvements on the National Emergency Training Center (NETC) campus, to include the FY 2011 Budget Request/FY 2012 Budget Planning updates, and National Fire Programs update. The Board will review and consider reports from the Applicant Outreach Subcommittee, FESHE/Professional Development Subcommittee, Training Resources and Data Exchange Review Subcommittee, and Emergency Medical Services Subcommittee.

After discussion of these topics, there will be a public comment period. After deliberation, the Board will recommend action to the Superintendent of the National Fire Academy and the Administrator of FEMA.

On the second day of the meeting, the Board will engage in an annual report working session. There will be no public comment period on the second day.

Dated: September 12, 2011.

Denis G. Onieal,

Superintendent, National Fire Academy, United States Fire Administration, Federal Emergency Management Agency.

[FR Doc. 2011–23992 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–600K, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–600K; Application for Citizenship and Issuance of Certificate under Section 322.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 29, 2011, at 76 FR 38197, allowing for a 60-day public comment period for a proposed revision to the information collection. However, USCIS is postponing deployment of the revisions to this information collection, and therefore requests to extend the current edition of this information collection without revision at this time. USCIS received one comment on the proposed revisions to this information collection. USCIS acknowledges receipt of the comment in the supporting statement (item 8) posted at *http://www.regulations.gov* and will further address the comment regarding the proposed revisions when USCIS revises the information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 19, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Office of the Executive Secretariat, 20 Massachusetts Avenue NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *USCISFRComment@dhs.gov,* and OMB USCIS Desk Officer via facsimile at 202–395–5806 or via *oira_submission@omb.eop.gov.* When submitting comments by e-mail please make sure to add OMB Control Number 1615–0087 in the subject box.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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 agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Citizenship and Issuance of Certificate under Section 322.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600K; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The data collected on this form is used by U.S. Citizenship and Immigration Services (USCIS) to determine eligibility for the requested immigration benefit of citizenship. The form serves the purpose of standardizing requests for the benefit, and will ensure that the basic information required to assess eligibility is provided by the applicants.

(5) *An estimate of the total number of annual respondents and the amount of time estimated for an average respondent to respond:* 2,950 responses at 1 hour and 35 minutes (1.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 4,670 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the USCIS Web site at: *http://uscis.gov/graphics/formsfee/forms/pra/index.htm.*

If additional information is required contact: USCIS, Regulatory Products Division, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020, telephone (202) 272–8377.

Dated: September 13, 2011.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2011–23861 Filed 9–16–11; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

[Docket No. USCBP–2011–0035; ADM–9–03 OT:RR:RD:TC; H183695 MJS]

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of Customs and Border Protection (COAC) will meet on October 4, 2011, in El Paso, TX. The meeting will be open to the public. As an alternative to on-site attendance, U.S. Customs and Border Protection (CBP) will also offer a live webcast of the COAC meeting via the Internet.

DATES: COAC will meet on Tuesday, October 4, 2011, from 1 p.m. to 6 p.m. Please note that the meeting may close early if the committee has completed its business.

Registration: If you plan on attending via webcast, please register online at *https://apps.cbp.gov/te_registration/?w=60* by close-of-business on September 27, 2011. Please feel free to share this information with interested members of your organizations or associations. If you plan on attending on-site, please register either online at *https://apps.cbp.gov/te_registration/?w=57* or by e-mail to *tradeevents@dhs.gov* by close-of-business on September 27, 2011.

ADDRESSES: The meeting will be held at Radisson Hotel El Paso Airport, in the Venetian 2 Salons, 1770 Airway Boulevard, El Paso, TX 79925. All visitors report to the foyer of Venetian 2 Salons.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below.

Comments must be submitted in writing no later than September 27, 2011 and must be identified by USCBP–2011–0035 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.2A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the COAC, go to *http://www.regulations.gov.*

There will be three public comment periods held during the meeting on October 4, 2011. On-site speakers are requested to limit their comments to 3 minutes. Contact the individual listed below to register as a speaker. Please note that the public comment period for on-site speakers may end before the time indicated on the schedule that is posted on the CBP web page at the time of the meeting. Comments can also be made electronically anytime during the COAC meeting webcast, but please note that webcast participants will not be able to provide oral comments. Comments submitted electronically will be read into the record at some time during the meeting.

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Room 5.2A, Washington, DC 20229; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). The COAC provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

Agenda

The COAC will meet to review, discuss next steps and formulate recommendations on the following four issues:

- The work of the Global Supply Chain Security: Land Border Security Initiatives Subcommittee.
- The work of the Role of the Broker, a Broker Revision Project.
- The Center of Excellence and Expertise (CEE) Pilot, Account Executive Pilots and Work of the Simplified Entry and Financial Processing Work Group.
- The work of the One U.S. Government at the Border Subcommittee. Prior to the COAC taking action on any of these four issues, members of the public will have an opportunity to provide comments orally or, for comments submitted electronically during the meeting, by reading the comments into the record.

The COAC will receive an update and discuss the following CBP Initiatives and Subcommittee issues:

- Update on the Work of the Air Cargo Security Subcommittee.

• Update on the Work of the Automated Commercial Environment (ACE).
• Update on the Work of the Antidumping/Countervailing Duty Subcommittee.
• Update on the Work of the IPR Enforcement Subcommittee.

Dated: September 14, 2011.

Maria Luisa O'Connell,

Senior Advisor for Trade, Office of Trade Relations.

[FR Doc. 2011–23940 Filed 9–16–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Intent To Repatriate Cultural Items: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum), in consultation with the appropriate Indian Tribes, has determined that the cultural items meet the definition of unassociated funerary objects and repatriation to the Indian Tribes stated below may occur if no additional claimants come forward. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the cultural items may contact the Burke Museum.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the cultural items should contact the Burke Museum at the address below by October 19, 2011.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Burke Museum, University of Washington, Seattle, WA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1953–1954, human remains were removed from the Cedar Cave Site (45–KT–20), in Kittitas County, WA, during a University of Washington Field Expedition led by Dr. Earl Swanson, Jr. The human remains and objects were transferred from the University of Washington, Department of Anthropology and accessioned by the Burke Museum in 1966 (Burke Accn. #1966–95). In 1974, the Burke Museum legally transferred portions of the human remains to Central Washington University. In 2007, a Notice of Inventory Completion (NIC) describing 4 individuals and 42 associated funerary objects removed from the Cedar Cave site was published in the **Federal Register** [72 FR 52391–52392, September 13, 2007]. The Burke Museum and Central Washington University have jointly repatriated all human remains and funerary objects from the Cedar Cave site described in the NIC. At that time, one object, the burial bundle, was believed to have been missing, but has subsequently been identified during a collection cataloging and re-housing project. Also at that time, a projectile point and two shell beads were not designated as associated funerary objects, but based on the available provenience information and their proximity to the burial, are now determined to have been intentionally placed with the human remains. Therefore, the four (now unassociated) funerary objects are one burial bundle, one projectile point, and two shell beads.

Early and late published ethnographic documentation indicates that the Cedar Cave Site is in the aboriginal territory of the Moses-Columbia or Sinkiuse, and the Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936) whose descendents are represented today by the Confederated Tribes of the Colville Reservation, Washington, and the Confederated Tribes and Bands of the Yakama Nation, Washington. Furthermore, information provided during consultation indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade. Descendents of these Plateau communities are now widely dispersed and enrolled in the two Tribes mentioned, as well as the Nez Perce Tribe, Idaho; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Wanapum Band, a non-Federally recognized Indian group. Museum documentation indicates that the cultural items were found in connection with the human remains. The cultural items are consistent with cultural items typically found in context with burials in eastern Washington.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

• Pursuant to 25 U.S.C. 3001(3)(B), the four cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho, as well as the Wanapum Band, a non-Federally recognized Indian group.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, before October 19, 2011. Repatriation of the unassociated funerary objects to the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho, as well as the Wanapum Band, a non-Federally recognized Indian group, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon;

Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-Federally recognized Indian group, that this notice has been published.

Dated: September 13, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23899 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Intent To Repatriate a Cultural Item: State Historical Society of Wisconsin, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Historical Society of Wisconsin, in consultation with the appropriate Indian Tribe, has determined a cultural item meets the definitions of sacred object and object of cultural patrimony and repatriation to the Indian Tribe stated below may occur if no additional claimants come forward. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the cultural item may contact the State Historical Society of Wisconsin.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the cultural item should contact the State Historical Society of Wisconsin at the address below by October 19, 2011.

ADDRESSES: Jennifer Kolb, Director, Wisconsin Historical Museum, 30 North Carroll St., Madison, WI 53703, telephone (608) 261–2461.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the *Native American Graves Protection and Repatriation Act* (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the State Historical Society of Wisconsin (also known as the Wisconsin Historical Society), Madison, WI, that meets the definitions of sacred object and object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

The object to be repatriated is the Decorah war bundle. The contents are comprised of an oil cloth bag, three cane flutes, two cane sticks, one stick of wood, one drumstick, one bag of arborvitae leaves, three animal tails, one skin bag, three bird bodies, one bird head, and two bird wings. According to the Wisconsin Historical Museum accession ledger the object is a war bundle of the Winnebago Wolf Clan. This war bundle was one of several objects purchased from Paul Radin for $80.00. It was obtained by Paul Radin from the family of Ho-Chunk Chief Spoon Decorah (also known as Dekorah, DeCarrie, Decora, DeKaury) at Black River Falls, WI, in October 1913.

According to Dr. Paul Radin, author of *The Winnebago Tribe,* war bundles were used in what is often called the Wagigō, Winter Feast, or War-bundle Feast, which is one of the principal ceremonies of the Ho-Chunk. The Decorah war bundle is affiliated with the Ho-Chunk people, who are now the Ho-Chunk Nation of Wisconsin and the Winnebago Tribe of Nebraska. According to the Ho-Chunk Nation, ''Many of the clan bundles were divided when Ho-Chunk members of the different families chose to return to Wisconsin and other members chose to stay in Nebraska.''

During consultation, the Traditional Court of the Ho-Chunk Nation identified Mr. Cleland Goodbear, a member of the Ho-Chunk Nation of Wisconsin, as a lineal descendant of Chief Spoon Decorah, and present clan leader of the Decorah family. The Traditional Court further determined that the Decorah war bundle should be reunited with another bundle that Mr. Goodbear has in his possession.

Although the Decorah war bundle was requested for repatriation by the Ho-Chunk Nation of Wisconsin under the category ''object of cultural patrimony,'' officials of the State Historical Society of Wisconsin have determined that the Decorah war bundle is also a specific ceremonial object needed by Ho-Chunk religious leaders for the practice of traditional Native American religion by their present-day adherents.

Determinations Made by the State Historical Society of Wisconsin, Madison, WI

Officials of the State Historical Society of Wisconsin have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), the one cultural item described above is a specific ceremonial object needed by Native American religious leaders for the practice of traditional Native American religion by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object/object of cultural patrimony and the Ho-Chunk Nation of Wisconsin and the Winnebago Tribe of Nebraska.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the sacred object/object of cultural patrimony should contact Jennifer Kolb, Director, Wisconsin Historical Museum, 30 North Carroll St., Madison, WI 53703, telephone (608) 261–2461, before October 19, 2011. Repatriation of the sacred object/object of cultural patrimony to the Ho-Chunk Nation of Wisconsin may proceed after that date if no additional claimants come forward.

The State Historical Society of Wisconsin is responsible for notifying the Ho-Chunk Nation of Wisconsin and Winnebago Tribe of Nebraska that this notice has been published.

Dated: September 14, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23977 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Intent To Repatriate a Cultural Item: Denver Museum of Nature and Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Denver Museum of Nature & Science, in consultation with the appropriate Indian Tribe, has determined that a cultural item meets the definition of an object of cultural patrimony and that repatriation to the Indian Tribe stated below may occur if no additional claimants come forward. Representatives of any Indian Tribe that

believes itself to be culturally affiliated with the cultural item may contact the Denver Museum of Nature & Science.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the cultural item should contact the Denver Museum of Nature & Science at the address below by October 19, 2011.

ADDRESSES: Dr. Chip Colwell-Chanthaphonh, Curator of Anthropology, NAGPRA Officer, Department of Anthropology, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6378.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the *Native American Graves Protection and Repatriation Act* (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Denver Museum of Nature & Science, Denver, CO, that meets the definition of an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural item. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Item

The cultural item is a wooden hat (AC.11506) in the shape of an eagle that is carved and painted. The hat measures 18 inches long, 14 inches wide, and 9 inches high at the top of head. It is painted in bright colors, including red, white, black, yellow, orange and light blue. The head and tail are painted white, and the body is brown. There are areas on the hat that have inlaid abalone. Two rawhide strips form head ties. One eagle wing has been broken and repaired.

During consultation, the Hoonah Indian Association, working on behalf of the Huna Tlingit Tribe, Gooch Hit/Wolf House, Kaagwaantaan Clan of Hoonah, Alaska, provided evidence that identifies the hat as Kaagwaantaan Wolf Clan, Eagle Moiety. The claim submitted by the Hoonah Indian Association details the Clan's claim to the hat as an object of cultural patrimony, which a single individual cannot alienate.

Oral history indicates that the hat is believed to have been carved by Yeil naa wu/Dick Yetima of Deisheetaan Clan, Raven House, from Angoon. The hat then belonged to the Kaagwaantaan Wolf Clan under the care of Yak Kwaan/Jim Martin. At an unknown date, it passed to clan caretaker *X* ee T'lee-eesh/Robert Grant, Sr. In 1966, the hat came into the control of clan caretaker Robert ''Jeff'' David, Sr. After it came into the control of Mr. David, the hat was sold. It appears that the hat was sold without the consent of family or Clan, as the Clan thought it was lost or stolen, since there was no explanation of where it had gone.

Museum records show that the hat was purchased by Francis V. and Mary Crane from Michael R. Johnson of the Michael R. Johnson Gallery, Seattle, WA, on April 1, 1975. The hat was then given by the Cranes to the Denver Museum of Natural History (now Denver Museum of Nature & Science). The description of the purchase also shows that the hat was carved circa 1930, and was purchased from Mr. Jeff David of Haines, AK, who stated that the hat was from Hoona [sic], Alaska.

Determinations Made by the Denver Museum of Nature & Science

Officials of the Denver Museum of Nature & Science have determined that:

- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the object of cultural patrimony and the Hoonah Indian Association.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the object of cultural patrimony should contact Dr. Chip Colwell-Chanthaphonh, Curator of Anthropology, NAGPRA Officer, Department of Anthropology, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6378, before October 19, 2011. Repatriation of the object of cultural patrimony to the Hoonah Indian Association, on behalf of the Gooch Hit/Wolf House of the Kaagwaantaan Clan of Hoonah, Alaska, may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Hoonah Indian Association that this notice has been published.

Dated: September 14, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23974 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum), has completed an inventory of human remains, in consultation with the appropriate Indian Tribes, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains may contact the Burke Museum. Repatriation of the human remains to the Indian Tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remains should contact the Burke Museum at the address below by October 19, 2011.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Burke Museum, University of Washington, Seattle, WA. The human remains were removed from the Congdon site (45–KL–41), in Klickitat County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke

Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho (hereinafter ''The Tribes''). The Burke Museum also consulted with the Wanapum Band, a non-Federally recognized Indian group (hereinafter ''The Indian Group'').

History and Description of the Remains

Between 1955 and 1957, human remains were removed from the Congdon site, in Klickitat County, WA, by a University of Washington field party led by Mr. Robert B. Butler. The human remains were transferred to the Burke Museum and formally accessioned in 1966 (Burke Accn.# 1966–100). In 1974, the Burke Museum legally transferred portions of the human remains to Central Washington University. In 2007, a Notice of Inventory Completion (NIC) describing 91 individuals and 1,049 associated funerary objects removed from the Congdon site was published in the **Federal Register** [72 FR 29177–29178, May 24, 2007]. The Burke Museum and Central Washington University have jointly repatriated all human remains and funerary objects from the Congdon site described in the NIC.

In September 2010, human remains representing at least two individuals were returned to the Burke Museum from the Washington State Physical Anthropologist. These human remains had been turned over to the New York State Police by a private citizen who stated they were among the possessions of her deceased husband. She believed they had been removed from a warehouse in south Seattle sometime before 2000. The human remains have been determined to be from the Congdon site. The remains of one individual were directly labeled with a Condgon site number and the second individual was determined to be from the Congdon site due to the color and appearance of the remains. The return of these remains increases the original minimum number of individuals from the site by two individuals. No known individuals were identified. No associated funerary objects are present.

Published ethnographic documentation indicates that the Congdon site is in the aboriginal territory of the Western Columbia River Sahaptins, Wasco, Wishram, Yakima, Walla Walla, Umatilla, Tenino, and Skin (Daugherty 1973, Hale 1841, Hunn and French 1998, Stern 1998, French and French 1998, Mooney 1896, Murdock 1938, Ray 1936 and 1974, Spier 1936), whose descendents are represented today by the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; and the Confederated Tribes of the Warm Springs Reservation of Oregon. Furthermore, information provided during consultation indicates that the aboriginal ancestors occupying this area were highly mobile, and traveled widely across the landscape for gathering resources as well as trade. Descendents of these Plateau communities are now widely dispersed and enrolled in all of the above mentioned Tribal communities, as well as the Confederated Tribes of the Colville Reservation, Washington; Nez Perce Tribe, Idaho, and the Wanapum Band, a non-Federally recognized Indian group.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains, The Tribes, and The Indian Group.

Additional Requestors and Disposition

Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains should contact Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, before October 19, 2011. Repatriation of the human remains to The Tribes and The (joined) Indian Group may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying The Tribes and The Indian Group that this notice has been published.

Dated: September 14, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23978 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Burke Museum. Repatriation of the human remains and associated funerary objects to the Indian Tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the Burke Museum at the address below by October 19, 2011.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Burke Museum, University of Washington, Seattle, WA. The human remains and associated funerary objects were removed from Grant County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke

Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho (hereinafter ''The Tribes''). The Burke Museum also consulted with the Wanapum Band, a non-Federally recognized Indian group (hereinafter ''The Indian Group'').

History and Description of the Remains

In 1920, human remains were removed by Dr. F.S. Hall of the Washington State Museum from the Pot Holes site or Hall Site #7 (later assigned 45–GR–131) located on the east bank of the Columbia River, south of Trinidad, Grant County, WA. The human remains were accessioned by the museum in November 1920 (Burke Accn. #1860). In 1974, the Burke Museum legally transferred portions of the human remains to Central Washington University. In 2007, a Notice of Inventory Completion (NIC) describing 35 individuals and 685 associated funerary objects removed from the Pot Hole site was published in the **Federal Register** [72 FR 52391–52392, September 13, 2007]. The Burke Museum and Central Washington University have jointly repatriated these human remains and funerary objects to the culturally affiliated Tribes listed in the NIC. In 2010, the Burke Museum found an additional two individuals and two associated funerary objects from the Pot Hole site during an inventory of the University of Washington, Department of Anthropology Collections. No known individuals were identified. The two associated funerary objects are one lot of bones (non-human) and one unmodified rock.

Early and late published ethnographic documentation indicates that the Pot Hole site is located in the aboriginal territory of the Moses-Columbia or Sinkiuse, and the Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936) whose descendents are represented today by the Confederated Tribes of the Colville Reservation, Washington, and the Confederated Tribes and Bands of the Yakama Nation, Washington. Furthermore, information provided during consultation indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade. Descendents of these Plateau communities are now widely dispersed and enrolled in the two Tribes mentioned above, as well as the Nez Perce Tribe, Idaho; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Wanapum Band, a non-Federally recognized Indian group. Museum documentation indicates that the cultural items were found in connection with the human remains. The cultural items are consistent with cultural items typically found in context with burials in eastern Washington.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes and The Indian Group.

Additional Requestors and Disposition

Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, before October 19, 2011. Repatriation of the human remains and associated funerary objects to The Tribes and The Indian Group may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying The Tribes and The Indian Group that this notice has been published.

Dated: September 13, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23900 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Reclamation, Phoenix Area Office, Phoenix, AZ and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, Phoenix Area Office and Arizona State Museum have completed an inventory of a human remain, in consultation with the appropriate Indian Tribes, and have determined that there is a cultural affiliation between the human remain and present-day Indian Tribes. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remain may contact the Bureau of Reclamation, Phoenix Area Office. Repatriation of the human remain to the Indian Tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remain should contact the Bureau of Reclamation, Phoenix Area Office at the address below by October 19, 2011.

ADDRESSES: Randy Chandler, Area Manager, Bureau of Reclamation, Phoenix Area Office, 6150 West Thunderbird Rd., Glendale, AZ 85306–4001.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the *Native American Graves Protection and Repatriation Act* (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of a human remain in the control of the U.S. Department of the Interior, Bureau of Reclamation, Phoenix Area Office, Phoenix, AZ, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remain was removed from Pinal County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remain was made by Arizona State

Museum professional staff on behalf of the Bureau of Reclamation, Phoenix Area Office, in consultation with representatives of the Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico (hereinafter referred to as ''The Tribes'').

History and Description of the Remains

Between February and May 1975, a human remain—a mandible fragment—representing one individual was removed from a pack rat nest located on the talus slope below the mouth of a rock shelter, site AZ U: 16:213(ASM), in Pinal County, AZ, during a legally authorized Class III (Intensive) cultural resource survey undertaken by the Arizona State Museum for the Bureau of Reclamation. The site is located on the north side of Gila River, east of Florence, and downstream of the ''Buttes'' on the Gila River where a proposed dam was to be built during the Central Arizona Project. In 2010, Arizona State Museum reviewed uncatalogued site survey collections, which revealed the presence of this isolated Native American mandible fragment from a survey on Reclamation withdrawn lands along the Middle Gila River. There have been other Notices of Inventory Completion (NICs) published in the **Federal Register** for the Central Arizona Project (39 FR 8996–9002, February 27, 2002; 67 FR 45539–45540, July 9, 2002; and 67 FR 78247–78248, December 23, 2002). The materials reported in the earlier NICs were repatriated to the affiliated Tribes in October and November of 2002. No known individual was identified. No associated funerary objects are present.

Site AZ U:16:213(ASM) was classified as a secondary habitation site, and no diagnostic ceramics were present to place the site in a temporal or cultural sequence. Nonetheless, on the basis of archeological context, chronometric, architectural, ceramic, and other types of artifactual evidence at adjacent sites recorded during the survey, AZ U:16:213(ASM) most likely represents a Hohokam occupation of the Middle Gila.

Evidence provided by anthropological, archeological, biological, geographical, historical, kinship, linguistics, and oral tradition sources was considered in determining the cultural affiliation of the human remain. Bureau of Reclamation officials have determined that the preponderance of the evidence suggests that the historic O'odham groups (The Four Southern Tribes: Ak-Chin Indian Community of the Maricopa (Ak-Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona, including the San Xavier District) have a strong cultural affiliation with the prehistoric Hohokam who occupied the middle Gila Valley and surrounding areas. Great similarities in settlement patterns, economic systems, architecture, and material culture point to a close relationship between the Hohokam and the O'odham groups. The O'odham were well established along the rivers and in the deserts when the Spanish first arrived in northern Sonora and southern Arizona.

One of the two Pima moieties claims descent from the Hohokam, while the other moiety is said to have descended from the ''emergers,'' those who overthrew the Hohokam leaders. Although the O'odham belong to the same linguistic group (Piman) as communities in what is now northern Mexico, shared vocabulary and syntax with Yuman language groups along the Colorado River suggests a long-term history of interaction that stretches back into prehistoric times in what is now southern Arizona.

Evidence also shows the affiliation of ancestral Zuni and Hopi groups with the prehistoric Hohokam. Interaction is indicated by the presence of trade items, particularly ceramics. Such interaction continued into protohistoric and early historic times. In addition to trade, Hopi and Zuni migration traditions indicate that clans originating from areas south of the Colorado Plateau joined the plateau communities late in prehistoric times. These groups contributed ceremonies, societies, and iconography to the plateau groups. Both O'odham and Western Pueblo oral traditions indicate that some Hohokam groups may have left the Salt-Gila River Basin after disastrous floods and social upheaval. These groups traveled north and east, possibly to be assimilated by the Hopi and Zuni. These ties are reflected in some of the traditional ceremonies maintained as part of the annual ceremonial cycle. Their ancestors had trade relationships and other likely interactions with the Hohokam, similar to those found between groups in the early historic period. Hopi and Zuni oral traditions indicate that segments of the prehistoric Hohokam population migrated to the areas occupied by the Hopi and Zuni and were assimilated into the resident populations. Therefore, the evidence suggests that the Hopi and Zuni are also culturally affiliated with the Hohokam.

Determinations Made by the Bureau of Reclamation, Phoenix Area Office

Officials of the Bureau of Reclamation, Phoenix Area Office have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remain of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remain and The Tribes.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remain should contact, in writing, Randy Chandler, Area Manager, Bureau of Reclamation, Phoenix Area Office, 6150 West Thunderbird Rd., Glendale, AZ 85306–4001, before October 19, 2011. Repatriation of the human remain to The Tribes may proceed after that date if no additional claimants come forward.

The Bureau of Reclamation is responsible for notifying The Tribes; Chemehuevi Indian Tribe of the Chemehuevi Reservation, California; Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Fort McDowell Yavapai Nation, Arizona; Fort Mohave Indian Tribe of Arizona, California & Nevada; Pascua Yaqui Tribe of Arizona; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; and Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona, that this notice has been published.

Dated: September 14, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23964 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Colorado Historical Society (History Colorado), Denver, CO; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

SUMMARY: This notice corrects the cultural affiliation of two individuals described in a Notice of Inventory Completion (NIC) previously published in the **Federal Register** (34 FR 10906–10909, February 20, 2001). The Colorado Historical Society (History Colorado) completed an inventory of human remains and associated funerary objects, and through additional consultation with the appropriate Indian Tribes, determined that the cultural affiliation for two of the 260 individuals described in the previously published NIC of February 20, 2001 (2001 NIC) needed correction.

DATES: Representatives of any other Indian Tribe that believes it has a cultural affiliation with the human remains should contact the Colorado Historical Society at the address below by October 19, 2011.

ADDRESSES: Bridget Ambler, Curator of Material Culture, 1560 Broadway, Suite 400, Denver, CO 80202, telephone (303) 866–2303.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the *Native American Graves Protection and Repatriation Act* (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession and control of the Colorado Historical Society, Denver, CO. The human remains were removed from Jefferson County, CO, and San Juan County, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Colorado Historical Society professional staff in consultation with representatives from the following Tribes in 2001, 2010, and/or 2011: Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma (formerly the Cheyenne-Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Tesuque, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico. The following Tribes were invited to consult, but did not participate: the Apache Tribe of Oklahoma; Kewa Pueblo, New Mexico (formerly the Pueblo of Santo Domingo); Pueblo of Picuris, New Mexico; Shoshone Tribe of the Wind River Reservation, Wyoming; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; Pueblo of San Felipe, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Taos, New Mexico; and Pueblo of Zia, New Mexico.

History and Description of the Remains

Upon preparation for transfer and reburial in July 2001, the designated Tribal representative for the Ute Mountain Tribe of the Ute Mountain Ute Reservation, Colorado, New Mexico & Utah (the lead Tribe for the 12 Tribes listed in the 2001 NIC) requested that the Colorado Historical Society (History Colorado) postpone the transfer of two of the 260 individuals and conduct additional research and consultation on them. Colorado Historical Society remains in possession of these two individuals, while the other 258 individuals have been transferred. Since that time, the Colorado Historical Society received information that has changed the cultural affiliation for both individuals.

Additional information changed the cultural affiliation of one of the individuals to Ancestral Puebloan. This individual (catalog number UHR.131/173) that was described in the 2001 NIC, has now been described in another NIC published in the **Federal Register** (76 FR 35010–35012, June 15, 2011). The transfer of this individual will be to the Tribes listed in that 2011 NIC, which are different from the 12 Tribes listed in the 2001 NIC. Consequently, the 2001 NIC is corrected by deleting paragraph 3 at page 10907, which references this individual.

With regard to the second individual (Office of Archaeology and Historic Preservation Case Number 103), the Colorado Historical Society conducted additional research and determined that the individual is not culturally affiliated to any present-day Indian Tribe. Thus, the individual is determined to be culturally unidentifiable and the disposition will be according to the ''Process for Consultation, Transfer and Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating From Inadvertent Discoveries on Colorado State and Private Lands.'' The document outlining the process is on file at the Colorado Historical Society, and was authorized by the Secretary of the Interior on September 23, 2008. This individual will be described in a NIC and published in the **Federal Register**, as required by the process since it has not been determined to be from Tribal or aboriginal land. Consequently, the 2001 NIC is corrected by deleting paragraph 1 at page 10908, which references this individual.

Finally, the 2001 NIC is corrected by replacing paragraph 16 at page 10908 with the following paragraph, thereby changing the total number of individuals in the 2001 NIC from 260 to 258, and accurately reflecting the changes in determination and disposition of these two individuals in this notice and the 2011 NIC:

Based on the above-mentioned information, officials of the Colorado Historical Society have determined that, pursuant to 43 CFR 10.2(d)(1), the human remains listed above represent the physical remains of 258 individuals of Native American ancestry. Officials of the Colorado Historical Society also have determined that, pursuant to 43 CFR 10.2(d)(2), the 548 objects listed above are reasonably believed to have

been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, pursuant to 43 CFR 10.2(e), officials of the Colorado Historical Society have determined that, based upon traditional territories and oral traditions, there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Kiowa Indian Tribe of Oklahoma; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remains or believes that it satisfies the criteria in 43 CFR 10.1(c)(1) should contact Bridget Ambler, Curator of Material Culture, Colorado Historical Society, 1560 Broadway, Suite 400, Denver, CO 80202, telephone (303) 866–2303], before October 19, 2011.

The Colorado Historical Society is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kewa Pueblo, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: September 14, 2011.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2011–23971 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs and Sam Noble Oklahoma Museum of Natural History have completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes, and have determined that there is a cultural affiliation between the human remains and associated funerary objects and a present-day Indian Tribe. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects may contact the Sam Noble Oklahoma Museum of Natural History. Repatriation of the human remains and associated funerary objects to the Indian Tribe stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remains and associated funerary objects should contact the Sam Noble Oklahoma Museum of Natural History at the address below by October 19, 2011.

ADDRESSES: The Director, Sam Noble Oklahoma Museum of Natural History, 2401 Chautauqua, Norman, OK 73072, telephone (405) 325–8978.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the *Native American Graves Protection and Repatriation Act* (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the possession of the Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, Norman, OK. The human remains and associated funerary objects were removed from Bryan County, OK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Sam Noble Oklahoma Museum of Natural History professional staff in consultation with the Oklahoma State Archeologist and representatives of the Chickasaw Nation, Oklahoma. The Choctaw Nation of Oklahoma also examined the cultural items, but did not express an interest in being a part of the NAGPRA consultation.

History and Description of the Remains

In 1941, human remains representing a minimum of one individual were removed from an unidentified context near a former refuse area at Fort Washita (Colbert Site, 34Br-6), in Bryan County, OK, by Works Progress Administration employees. Fort Washita was abandoned by the War Department after the Civil War. Five years later the land was turned over to the Chickasaw Nation. The property was subsequently

allotted to Abbie Davis Colbert and her son, Douglas, in 1906 and 1908. The Colbert family retained the property until they sold it to the State of Oklahoma in 1962. The remains and funerary objects were transferred to the the Stovall Museum of Science and History, now called the Sam Noble Oklahoma Museum of Natural History. No known individual was identified. The 1,532 associated funerary objects are 33 points, 2 drills, 13 biface fragments, 4 bifaces, 119 flakes, 17 blocky debris, 1 hammerstone, 2 manos, 1 groundstone fragment, 1 pottery bowl fragment, 7 undecorated pottery rim sherds, 51 undecorated pottery body sherds, 2 pottery body sherds, 1 pottery base sherd, 2 pieces of daub, 3 pieces of baked clay, 8 buttons, 2 toothbrush fragments, 1 knife handle, 1 knife handle fragment, 1 worked animal bone fragment, 397 animal bone fragments, 11 burned animal bone fragments, 2 boar tusks, 35 animal teeth fragments, 2 mussel shell fragments, 30 ceramic rim sherds, 3 ceramic handle fragments, 3 ceramic handle sherds, 96 ceramic body sherds, 24 ceramic base sherds, 1 ceramic base fragment, 398 pipestem fragments, 6 burned pipestem fragments, 80 pipe bowl fragments, 9 burned pipe bowl fragments, 2 pipe fragments, 4 clay marbles, 16 beads, 11 glass beads, 1 glass ornament, 1 glass stopper, 2 glass stopper fragments, 43 glass bottle fragments, 3 melted glass fragments, 1 molded glass bottle fragment, 3 iron fork fragments, 1 iron knife fragment with bone handle, 1 iron handle, 1 iron handle fragment, 1 iron bowl fragment, 2 iron keys, 1 iron hinge, 1 iron gun hammer, 2 iron gun pieces, 1 fish hook, 12 nails, 1 iron ring, 1 coffee mill, 1 possible iron file, 1 large iron tack, 4 iron rods, 3 unidentified iron fragments, 1 metal tube, 1 scissors fragment, 1 finial fragment, 1 brass gun ring, 2 brass hinges, 2 water taps, 1 brass buckle, 2 percussion caps, 1 brass fragment, 2 possible copper fragments, 2 lead musket balls, 1 lead bullet, 1 lead slug, 2 lead chunks, 1 lead rod, 1 spoon handle, 2 spoon fragments, 2 coins, 1 metal ornament, 1 piece of plaster or concrete, 2 fossils, 9 rocks, 1 rock fragment, 1 sandstone fragment, and 1 unidentified stone.

The skeletal remains consist of fragmentary long bones and cannot be used to conclusively establish cultural affiliation. The physical relationship of the remains to a particular population group (*e.g.,* Native American, European, or African) could not be established. However, affiliation of the remains can be established with some degree of confidence through examination of the archeological and historic context of the remains. This site is adjacent to (or more likely a part of) the use area of historic Fort Washita, which was established by the U.S. Government to protect southeastern removal Tribes (*e.g.,* Chickasaw and Choctaw) from depredations by whites (principally from Texas) and Plains Indian groups (such as the Apache and Comanche). Many Chickasaw congregated around Fort Washita for protection as well as for the economic goods available there. Thus, the resident community of Fort Washita consisted of white soldiers; individuals related to post personnel; traders who operated outside the post; Native Americans (mostly Chickasaws) who settled around the post; and blacks who were slaves of the more affluent Chickasaws. Although the records do not specifically address the presence of human remains from the excavation, the long bones were found in physical association with the other materials from 34Br6. The materials recovered from 34Br6 are those that would be typically associated with refuse disposal, and this refuse area can be identified as principally Native American in origin (probably Chickasaw). This is due to an absence of military hardware and the presence of aboriginal historic ceramics and glass beads although European goods are also abundant within the midden. These facts indicate that the individual from the burial is most likely a person of Chickasaw cultural affiliation.

Determinations Made by the Department of the Interior, Bureau of Indian Affairs and Sam Noble Oklahoma Museum of Natural History

Officials of the Department of the Interior, Bureau of Indian Affairs and Sam Noble Oklahoma Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 1,532 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Chickasaw Nation, Oklahoma.

Additional Requestors and Disposition

Representatives of any other Indian Tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact the Director, Sam Noble Oklahoma Museum of Natural History, 2401 Chautauqua, Norman, OK 73072, telephone (405) 325–8978, before October 19, 2011. Repatriation of the human remains and associated funerary objects to the Chickasaw Nation, Oklahoma, may proceed after that date if no additional claimants come forward.

The Sam Noble Oklahoma Museum of Natural History is responsible for notifying the Chickasaw Nation, Oklahoma, that this notice has been published.

Dated: September 14, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23969 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[2253–665]

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Thomas Burke Memorial Washington State Museum (Burke Museum), has completed an inventory of human remains, in consultation with the appropriate Indian Tribes, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes. Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains may contact the Burke Museum. Repatriation of the human remains to the Indian Tribes stated below may occur if no additional claimants come forward.

DATES: Representatives of any Indian Tribe that believes it has a cultural affiliation with the human remains should contact the Burke Museum at the address below by October 19, 2011.

ADDRESSES: Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–3849.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Burke Museum, University of Washington, Seattle, WA. The human

remains were removed from Kittitas County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho (hereinafter ''The Tribes''). The Burke Museum also consulted with the Wanapum Band, a non-Federally recognized Indian group (hereinafter ''The Indian Group'').

History and Description of the Remains

In 1953–1954, human remains and funerary objects were removed from the Cedar Cave Site (45–KT–20), in Kittitas County, WA, during a University of Washington Field Expedition led by Dr. Earl Swanson, Jr. The human remains and funerary objects were transferred from the University of Washington Department of Anthropology and accessioned by the Burke Museum in 1966 (Burke Accn. #1966–95). In 1974, the Burke Museum legally transferred portions of the human remains to Central Washington University. In 2007, a Notice of Inventory Completion (NIC) describing 4 individuals and 42 associated funerary objects removed from the Cedar Cave site was published in the **Federal Register** [72 FR 52391–52392, September 13, 2007]. The Burke Museum and Central Washington University have jointly repatriated these human remains and funerary objects from the Cedar Cave site described in the NIC. In 2009, during a collection cataloging and rehousing project, the Burke Museum located one human tooth, representing an additional individual, which had also been removed from the Cedar Cave Site. No known individual was identified. There are no associated funerary objects for this individual.

Early and late published ethnographic documentation indicates that the Cedar Cave Site is in the aboriginal territory of the Moses-Columbia or Sinkiuse, and the Yakima (Daugherty 1973, Miller 1998, Mooney 1896, Ray 1936, Spier 1936) whose descendants are represented today by the Confederated Tribes of the Colville Reservation, Washington, and the Confederated Tribes and Bands of the Yakama Nation, Washington. Furthermore, information provided during consultation indicates that the aboriginal ancestors occupying this area were highly mobile and traveled the landscape for gathering resources as well as trade. Descendants of these Plateau communities are now widely dispersed and enrolled in the two Tribes mentioned above, as well as the Nez Perce Tribe, Idaho; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; and the Wanapum Band, a non-Federally recognized Indian group.

Determinations Made by the Burke Museum

Officials of the Burke Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes and The Indian Group.

Additional Requestors and Disposition

Representatives of any Indian Tribe that believes itself to be culturally affiliated with the human remains should contact Peter Lape, Burke Museum, University of Washington, Box 35101, Seattle, WA 98195, telephone (206) 685–3849, before October 19, 2011. Repatriation of the human remains to The Tribes and The Indian Group may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying The Tribes and The Indian group that this notice has been published.

Dated: September 13, 2011.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2011–23902 Filed 9–16–11; 8:45 am]

BILLING CODE 4312–50–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–825 and 826; Second Review]

Certain Polyester Staple Fiber From Korea and Taiwan

Determination

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty orders on certain polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on March 1, 2011 (76 FR 11268) and determined on June 6, 2011 that it would conduct expedited reviews (76 FR 37830, June 28, 2011).

The Commission transmitted its determination in these reviews to the Secretary of Commerce on September 13, 2011. The views of the Commission are contained in USITC Publication 4257 (September 2011), entitled *Certain Polyester Staple Fiber From Korea and Taiwan: Investigation Nos. 731–TA–825 and 826 (Second Review).*

By order of the Commission.

Issued: September 13, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–23907 Filed 9–16–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–650]

Certain Coaxial Cable Connectors and Components Thereof and Products Containing Same; Notice of Issuance of a General Exclusion Order for U.S. Patent No. 5,470,257

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to issue a general exclusion order for U.S. Patent

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

No. 5,470,257 (''the '257 patent'') following a remand from the United States Court of Appeals for the Federal Circuit (''Federal Circuit'') in *John Mezzalingua Associates* v. *Int'l Trade Comm'n,* 2011 U.S. App. LEXIS 8806 (Fed. Cir. Apr. 28, 2011).

FOR FURTHER INFORMATION CONTACT: Michelle Klancnik, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 30, 2008, based on a complaint filed by John Mezzalingua Associates, Inc. d/b/a PPC, Inc. of East Syracuse, New York (''PPC''). 73 FR 31145 (May 30, 2008). The complaint alleged violations of section 337 of the *Tariff Act of 1930* (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain coaxial cable connectors and components thereof and products containing the same by reason of infringement of various United States Patents, including the '257 patent. The complaint named eight respondents. After institution, two respondents were terminated based on consent orders and four respondents were found to be in default (''defaulting respondents''). Two respondents, Fu-Ching Technical Industry, Co., Ltd. and Gem Electronics, Inc. (''the active respondents''), remained active.

On October 13, 2009, the presiding administrative law judge issued a final initial determination (''ID'') and a recommended determination on remedy and bonding. The Commission determined to review the final ID in part.

On March 31, 2010, the Commission found no violation of section 337 for the '257 patent. The Commission found infringement of the '257 patent by the defaulting respondents and no infringement by the active respondents. The Commission nevertheless found no violation of section 337 because it found no domestic industry for the '257 patent. Having found no violation, the Commission did not make a remedy determination for the '257 patent.

Complainant PPC appealed to the Federal Circuit. In *John Mezzalingua Associates* v. *International Trade Commission,* 2011 U.S. App. LEXIS 8806 (Fed. Cir. Apr. 28, 2011), the Federal Circuit reversed the Commission's finding of no violation, entered a judgment of violation, and remanded the investigation to the Commission for proceedings consistent with its opinion. The Federal Circuit's mandate issued on June 30, 2011.

On July 18, 2011, the Commission issued a notice requesting comments from the parties regarding how to proceed with the investigation following the remand from the Federal Circuit. On July 29, 2011, PPC filed a response to the Commission's notice. On August 1, 2011, the Commission investigative attorney filed a response to the Commission's notice.

Having reviewed the record to the investigation including all relevant submissions, the Commission has determined that the appropriate form of remedy is a general exclusion order. The general exclusion order prohibits the unlicensed entry of coaxial cable connectors and components thereof and products containing the same that infringe claim 1 and/or 5 of the '257 patent.

The Commission further determined that the public interest factors enumerated in section 337(d) (19 U.S.C. 1337(d)) do not preclude issuance of the general exclusion order. Finally, the Commission determined that the amount of bond during the Presidential review period (19 U.S.C. 1337(j)) shall be in the amount of thirteen (13) cents per coaxial connector of the defaulting respondents—Hanjiang Fei Yu Electronics Equipment Factory of China, Zhongguang Electronics of China, Yangzhou Zhongguang Electronics Co. of China, and Yangzhou Zhongguang Foreign Trade Co. Ltd. of China. A bond in the amount of zero is required for any other coaxial cable connector or component thereof or product containing the same covered by the general exclusion order. The Commission's order was delivered to the President and the United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the *Tariff Act of 1930,* as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

Issued: September 13, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–23894 Filed 9–16–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–806]

Certain Digital Televisions Containing Integrated Circuit Devices and Components Thereof; Notice of Institution of Investigation; Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 12, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Renesas Electronics Corporation of Japan and 511 Technologies, Inc. of Marshall, Texas. Letters supplementing the complaint were filed on September 1, 2011 and September 6, 2011. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital televisions containing integrated circuit devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,199,432 (''the '432 patent'') and U.S. Patent No. 6,531,400 (''the '400 patent''). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information

on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on September 12, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital televisions containing integrated circuit devices and components thereof that infringe one or more of claims 9, 10, 12, 31, 32, and 35 of the '432 patent and claims 6–10 of the '400 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Renesas Electronics Corporation, Nippon Building, 2–6–2, Ote-machi, Chiyoda-ku, Tokyo 100–0004, Japan;

511 Technologies, Inc., 511 N. Washington Avenue, Marshall, TX 75670.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Vizio, Inc., 39 Tesla, Irvine, CA 92618.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: September 13, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–23890 Filed 9–16–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 12, 2011, a proposed Consent Decree in *United States of America* v. *CDS Investment Co., et al.,* Civil Action No. 2:11–cv–5696, D.J. Ref. 90–11–3–1604/1, was lodged with the United States District Court for the Eastern District of Pennsylvania.

In this action the United States sought reimbursement of response costs incurred and to be incurred in connection with the release or threatened release of hazardous substances at the AIW Frank/Mid-County Mustang Superfund Site (the ''Site'') located near Exton, West Whiteland Township, Chester County, Pennsylvania. The Consent Decree obligates the Settling Defendants to pay a total of $830,000 which the United States and Pennsylvania will share in reimbursement of past response costs each has incurred at the Sites. The United States will receive 75% of this amount, and Pennsylvania will receive 25%. Pennsylvania will file a separate complaint and consent decree in order to effectuate its settlement with the Settling Defendants. The settlement also contains provisions by which the United States would receive at least 65% of the proceeds of any future recovery on insurance policies related to business operations at the Sites.

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 *United States of America* v. *CDS Investment Co., et al.,* Civil Action No. 2:11–cv–5696, D.J. Ref. 90–11–3–1604/1.

During the public comment period, the Consent Decree may be examined on the following Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html,* maintained by the Department of Justice. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $8.50 (@ 25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–23957 Filed 9–16–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Modification to Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on September 12, 2011, a proposed modification (''Modification'') to the Consent Decree in *United States* v. *City of Newburgh, et al.,* Civil Action No. 08 Civ. 7378 (''Consent Decree'') was lodged with the United States District Court for the Southern District of New York.

The Modification resolves the claims of the United States, on behalf of the Environmental Protection Agency (''EPA''), under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9607 and 9613, against thirty-two potentially responsible parties (the ''Other Settling Parties'') who arranged for scrap metal containing hazardous substances to be transported to the Consolidated Iron and Metal Company Superfund Site (the ''Site'') for treatment or disposal. The Site is a former junkyard and scrap metal processing facility located in the City of Newburgh, New York. Consolidated Iron and Metal Company, Inc. (''Consolidated'') operated the facility from the 1950s until 1999.

In the course of processing scrap metal materials, Consolidated contaminated the Site with hazardous substances, including lead, polychlorinated biphenyls and volatile organic compounds. Consolidated is now a defunct company.

The original 2009 Consent Decree provides that the five settling defendants who are parties to that Consent Decree (the ''Defendants'') may enter into settlements with other potentially responsible parties at the Site, and present such parties to EPA for potential inclusion in the Consent Decree by amendment or separate agreement. Pursuant to the Consent Decree, the Defendants entered into settlement agreements with the Other Settling Parties and presented these parties to EPA for inclusion in the Consent Decree. Pursuant to the Modification, the Other Settling Parties will pay $200,400 to the United States, which represents 50 percent of the net settlement proceeds. The Other Settling Parties will receive contribution protection and a covenant not to sue from the United States for the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Modification. 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. *City of Newburgh, et al.,* D.J. Ref. 90–11–3–07979/2.

The Modification may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at U.S. EPA Region 2, Office of Regional Counsel, 290 Broadway, New York, New York 10007–1866. During the public comment period, the Modification may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Modification may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–23834 Filed 9–16–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation of Settlement and Judgment Pursuant to the Clean Water Act

On August 31, 2011, a proposed Stipulation of Settlement and Judgment (the ''Stipulation'') in *United States* v. *The Links at Columbia, LP and Lindsey Construction Company, Inc.,* No. 2:11–cv–04232–NKL, was lodged with the United States District Court for the Western District of Missouri. Both defendants signed the proposed Stipulation.

In this action the United States sought a civil penalty for violations of the *Clean Water Act,* 33 U.S.C. 1251, *et seq.,* in the course of the defendants' construction of The Links at Columbia, a large residential development in Columbia, Missouri. The Complaint alleged that the defendants violated conditions of National Pollutant Discharge Elimination System (''NPDES'') storm water permits issued by the State of Missouri. Construction is complete.

By signing the proposed Stipulation, the defendants certify that they have ceased the violations alleged in the Complaint. In addition, the proposed Stipulation will require the defendants will pay a $430,000 civil penalty for the violations.

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the proposed 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. The comments should refer to *United States* v. *The Links at Columbia and Lindsey Construction Company,* D.J. Ref. No. 90–5–1–1–09277.

During the public comment period, the proposed Stipulation may be examined at the Office of the United States Attorney, Western District of Missouri, Charles Evans Whittaker Courthouse, 400 East Ninth Street, Room 5510, Kansas City, Missouri 64106, or on the Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy may be obtained by mailing a request to the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. When requesting a copy by mail, please enclose a check payable to the U.S. Treasury in the amount of $26.50 (25 cents per page reproduction cost). A copy may also be obtained by e-mailing or faxing a request to Tonia Fleetwood, *tonia.fleetwood@usdoj.gov,* fax number (202) 514–0097, phone confirmation number (202) 514–1547, and mailing a check for the reproduction cost to the Consent Decree Library.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2011–23946 Filed 9–16–11; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,859]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; The Mega Life & Health Ins. Co., a Subsidiary of Healthmarkets, Inc., Including Workers Whose Unemployment Insurance (UI) Wages Are Paid Through Insphere Insurance Solutions, Inc., Including On-Site Leased Workers From Computer Solutions and Software International, Inc., Dell Service Sales, Emdeon Business Services, KFORCE, Microsoft, Pariveda Solutions, Inc., Perot Systems, Corp., Premius Credit Corp., Socrates, Inc., Sogeti USA, LLC, the Z Group, Inc., Verizon, Viant Payments Systems, and Insphere Insurance Solutions, Inc., North Richland Hills, TX

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 3, 2010, applicable to workers of The MEGA Life & Health Ins., Co., a subsidiary of HealthMarkets, Inc., including on-site leased workers from Computer Solutions and Software International, Inc., Dell Service Sales, Emdeon Business Services, KFORCE, Microsoft, Pariveda Solutions, Inc., Perot Systems Corp., Premium Credit Corp., Socrates, Inc., Sogeti USA, LLC, The Z Group, Inc., Verizon, and Viant Payments Systems, North Richland, Texas. The notice was published in the **Federal Register** on December 13, 2010 (75 FR 77668). The notice was amended on March 2, 2011 to include workers of the North Richland, Texas location of the subject firm whose wages were reported under a separate unemployment insurance (UI) tax account under the name Insphere Insurance Solutions. The amended notice was published in the **Federal Register** on March 14, 2011 (76 FR 13665).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers provide insurance claims processing.

Information shows that workers from Insphere Insurance Solutions, Inc. were employed on-site at the North Richland Hills, Texas location of The MEGA Life & Health, Ins. Co. The Department has determined that these workers were under the operational control of The MEGA Life & Health Ins., Co.

Based on these findings, the Department is amending this certification to include workers from Insphere Insurance Solutions, Inc. working on-site at the North Richland Hills, Texas location of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the acquisition of services from a foreign country.

The amended notice applicable to TA–W–74,859 is hereby issued as follows:

All workers of MEGA Life & Health Ins., Co., a subsidiary of HealthMarkets, Inc., including workers whose unemployment insurance (UI) wages are paid through Insphere Insurance Solutions, Inc., including on-site leased workers from Computer Solutions and Software International, Inc., Dell Service Sales, Emdeon Business Services, KFORCE, Microsoft, Pariveda Solutions, Inc., Perot Systems Corp., Premium Credit Corp., Socrates, Inc., Sogeti USA, LLC, The Z Group, Inc., Verizon, Viant Payments Systems, and Insphere Insurance Solutions, Inc., North Richland Hills, Texas, who became totally or partially separated from employment on or after November 1, 2009 through December 3, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 6th day of September, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–23932 Filed 9–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–70,989; TA–W–70,989A; TA–W–70,989B]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–70,989,
KLAUSSNER FURNITURE INDUSTRIES, INC., PLANT #3, ASHEBORO, NORTH CAROLINA;
TA–W–70,989A,
KLAUSSNER FURNITURE INDUSTRIES, INC., PLANT #33, ASHEBORO, NORTH CAROLINA;
TA–W–70,989B,
KLAUSSNER CORPORATE SERVICES, INC., ALSO KNOWN AS KLAUSSNER OF IOWA, A DIVISION OF KLAUSSNER FURNITURE INDUSTRIES, INC., MILFORD, IOWA.

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on August 26, 2009, applicable to workers of Klaussner Furniture Industries, Inc., Plant #3, Asheboro, North Carolina and Klaussner Furniture Industries, Inc., Plant #33, Asheboro, North Carolina. The workers cut fabric for upholstered household goods. The notice was published in the **Federal Register** on November 5, 2009 (74 FR 57340).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information shows that the Asheboro, North Carolina locations of Klaussner Furniture Industries, Inc., supplied fabric and the cut wood parts for the Milford, Iowa location to assemble frames and upholstered the furniture for the subject firm. The Milford, Iowa location supports and operates in conjunction with the Asheboro, North Carolina locations, all have experienced worker separations during the relevant time period, a decline in customer sales and production and were impacted by an increase in imports of upholstered household goods.

Accordingly, the Department is amending the certification to include workers of the Milford, Iowa location of Klaussner Furniture Industries, Inc.

The amended notice applicable to TA–W–70,989 is hereby issued as follows:

All workers of Klaussner Furniture Industries, Plant #3, Asheboro, North Carolina who became totally or partially separated from employment on or after February 14, 2009 through August 26, 2011, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

All workers of Klaussner Furniture Industries, Plant #33, Asheboro, North Carolina, and Klaussner Corporate Services, Inc., also known as Klaussner of Iowa, a division of Furniture Industries, Inc., Milford, Iowa (TA–W–70,989B) who became totally or partially separated from employment on or after June 2, 2008 through August 26 2011, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 26th day of August, 2011.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–23935 Filed 9–16–11; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,447]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Applied Materials, Inc.; Including On-Site Leased Workers From Adecco Employment Services, Aerotek, Inc., CDI IT Solutions, Inc. (CDI Corporation), D&Z Microelectronics, Pentagon Technology, Proactive Business Solution, Inc., Technical Resources, SQA Services, NSTAR, Ryder USA and Randstad Logistical Services, Austin, TX

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 30, 2009, applicable to workers of Applied Materials, Inc., including on-site leased workers from Adecco Employment Services, Aerotek, Inc., CDI IT Solutions, D&Z Microelectronics, Pentagon Technology, Proactive Business Solution, Inc., Technical Resources, SQA Services and NSTAR, Austin, Texas. The notice was published in the **Federal Register** on November 17, 2009 (74 FR 59253). The notice was amended on December 15, 2009 to include the Unemployment Insurance (UI) wages for on-site leased workers from CDI IT Solutions is reported under CDI Corporation. The amended notice was published in the **Federal Register** on January 20, 2010 (75 FR 3251).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of semiconductor equipment.

Information shows that leased workers from Ryder USA and Randstad Logistics were employed on-site at the Austin, Texas location of Applied Materials, Inc. The Department has determined that these workers were sufficiently under the control of Applied Materials, Inc., Austin, Texas to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Ryder USA and Randstad Logistics working on-site at the Austin, Texas location of Applied Materials, Inc.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in production of semiconductor equipment to Singapore.

The amended notice applicable to TA–W–71,447 is hereby issued as follows:

All workers of Applied Materials, Inc., including on-site leased workers from Adecco Employment Services, Aerotek, Inc., CDI IT Solutions, Inc. (CDI Corporation), D&Z Microelectronics, Pentagon Technology, Proactive Business Solution, Inc., Technical Resources, SQA Services, NSTAR, Ryder USA and Randstad Logistics, Austin, Texas, who became totally or partially separated from employment on or after June 25, 2008 through September 30, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 6th day of September, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011–23936 Filed 9–16–11; 8:45 am]

BILLING CODE 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 August 29, 2011 through September 2, 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 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–80,185; Iron Mountain Information Management, Inc., Boston, MA: May 17, 2010

TA–W–80,268; Cadmus Journal Services, Inc., Ephrata, PA: September 1, 2011

TA–W–80,287; Anthony, Inc., Alsip, IL: July 13, 2010

TA–W–80,303; California Newspaper Limited Partnership, Vallejo, CA: July 19, 2010

TA–W–80,304; RadiSys Corporation, Hillsboro, OR: August 15, 2011

TA–W–80,304A; Leased Workers from Northwest Software, Inc., Hillsboro, OR: July 20, 2010

TA–W–80,304B; Continuous Computing, Inc (CCPU), San Diego, CA: July 20, 2010

TA–W–80,356; Zebra Technologies Corporation, Camarillo, CA: August 9, 2010

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.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–80,350; Baby Bliss, Inc., Middleville, MI

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–80,323; Allen Family Foods, Inc., Cordova, MD

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–80,286; Affinity Express, Inc., Columbus, OH

TA–W–80,329; DHL Express, Houston, TX

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W–80,223; Rock-Tenn services, Inc., Milwaukee, WI

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W–80,293; Klaussner Furniture Industries, Milford, IA

TA–W–80,299; DST Output East, LLC, South Windsor, CT

TA–W–80,268; Hartford Financial Services Group, Inc., Hartford, CT

I hereby certify that the aforementioned determinations were issued during the period of August 29, 2011 through September 2, 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: September 9, 2011.

Michael W. Jaffe,

Certifying Officer, Office, Trade Adjustment Assistance.

[FR Doc. 2011–23934 Filed 9–16–11; 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 Division 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 September 29, 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 September 29, 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 8th day of September 2011.

Michael Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

16 TAA petitions instituted between 8/29/11 and 9/2/11

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80396	GE Oil & Gas (Union)	Oshkosh, WI	08/29/11	08/26/11
80397	Finish Line Hosiery (Company)	Fort Payne, AL	08/29/11	08/25/11
80398	Chartis (Staff Counsel Office) (Workers)	Jericho, NY	08/29/11	08/26/11
80399	CalAmp Corporation (Workers)	Oxnard, CA	08/30/11	08/18/11
80400	Four Seasons (Company)	Grapevine, TX	08/31/11	08/19/11
80401	NewBold Technical Institute (NBTI) (Workers)	East Liverpool, OH	08/31/11	08/29/11
80402	Richline Group Inc. (Workers)	New York, NY	08/31/11	08/30/11
80403	Capgemini @ Nokia Siemens Networka (Workers)	Irving, TX	08/31/11	08/10/11
80404	Golden Living (Workers)	Fort Smith, AR	08/31/11	08/30/11
80405	Schweizer Aircraft Corporation (Main facility) (Company)	Horseheads, NY	08/31/11	08/30/11
80406	Sc Johnson (Workers)	Fresno, CA	09/01/11	08/31/11
80407	CHEP USA Headquarters (Workers)	Orlando, FL	09/01/11	08/31/11
80408	International Business Machines (IBM) (State/One-Stop)	Southbury, CT	09/01/11	08/31/11
80409	Bosch Security Systems, Inc. (Company)	Lancaster, PA	09/02/11	09/01/11
80410	Solyndra (State/One-Stop)	Fremont, CA	09/02/11	09/01/11
80411	Bank of America (State/One-Stop)	Concord, CA	09/02/11	08/26/11

[FR Doc. 2011–23933 Filed 9–16–11; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 11–080]

Notice of Intent to Grant Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant partially exclusive license.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the inventions described and claimed in US Patent Application Serial Number 12/757,657, Method and Apparatus for Microwave Tissue Welding For Wound Closure, NASA Case No. MSC–24238–1 to Meridian Health Systems, P.C., having its principal place of business in Los Angeles, California. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

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 license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Johnson Space Center, 2101 NASA Parkway, Houston, Texas 77058, Mail Code AL; Phone (281) 483–3021; Fax (281) 483–6936.

FOR FURTHER INFORMATION CONTACT: Ted Ro, Intellectual Property Attorney, Office of Chief Counsel, NASA Johnson Space Center, 2101 NASA Parkway, Houston, Texas 77058, Mail Code AL; Phone (281) 244–7148; Fax (281) 483–6936. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Dated: September 12, 2011.

Richard W. Sherman,

Deputy General Counsel.

[FR Doc. 2011–23895 Filed 9–16–11; 8:45 am]

BILLING CODE P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Agency Meeting

TIME AND DATE: 10 a.m., Thursday, September 22, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

Matters To Be Considered

1. Final Rule—Parts 700, 701, 702, and 741 of NCUA's Rules and Regulations, Net Worth and Equity Ratio Definitions.
2. Delegations of Authority.
3. Insurance Fund Report.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, September 22, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

Matters To Be Considered

1. Consideration of Supervisory Activities (2). Closed pursuant to some

or all of the following: exemptions (8), (9)(A)(ii) and 9(B).

2. Appeal under Section 701.14 and Part 747, Subpart J of NCUA's Rules and Regulations. Closed pursuant to Exemptions (6) and (8).

3. Charter and Merger Request Pursuant to Part 708b of NCUA's Rules and Regulations. Closed pursuant to exemption (8).

4. Personnel. Closed pursuant to exemption (6).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2011–24152 Filed 9–15–11; 4:15 pm]

BILLING CODE 7535–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Michael P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* October 4, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for Literature in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

2. *Date:* October 6, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for U.S. History & Culture I in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

3. *Date:* October 12, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for Art History in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

4. *Date:* October 18, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for Music & Performing Arts in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

5. *Date:* October 18, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for United States History in America's Historical and Cultural Organizations Grants Program, submitted to the Division of Public Programs at the August 17, 2011 deadline.

6. *Date:* October 20, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for International Cultures in America's Media Makers Grants Program, submitted to the Division of Public Programs at the August 17, 2011 deadline.

7. *Date:* October 21, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for Anthropology in America's Historical and Cultural Organizations Grants Program, submitted to the Division of Public Programs at the August 17, 2011 deadline.

8. *Date:* October 24, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for American Studies in America's Media Makers Grants Program, submitted to the Division of Public Programs at the August 17, 2011 deadline.

9. *Date:* October 25, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for U.S. History and Culture II in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

10. *Date:* October 26, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for American History in America's Historical and Cultural Organizations Grants Program, submitted to the Division of Public Programs at the August 17, 2011 deadline.

11. *Date:* October 27, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 421.
Program: This meeting will review applications for United States History in America's Historical and Cultural Organizations Grants Program, submitted to the Division of Public Programs at the June 29, 2011 deadline.

12. *Date:* October 27, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 415.
Program: This meeting will review applications for U.S. History and Culture III in Preservation and Access Humanities Collections and Reference Resources, submitted to the Division of Preservation and Access at the July 20, 2011 deadline.

13. *Date:* October 31, 2011.
Time: 9 a.m. to 5 p.m.
Location: Room 315.
Program: This meeting will review applications for Enduring Questions, submitted to the Division of Education

Programs at the September 15, 2011 deadline.

Michael P. McDonald,

Advisory Committee Management Officer.

[FR Doc. 2011–24012 Filed 9–16–11; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

Date and Time: October 13–14, 2011, 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 555, Stafford II Building, 4121 Wilson Blvd., Arlington, VA 22230

Type of Meeting: Open.

Contact Person: Dr. Jim Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–7165.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: September 14, 2011.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 2011–23922 Filed 9–16–11; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 19, 2011. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or (703) 292–7420.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

Applicant	Permit application
1. Sam Feola, Director, Raytheon Polar Services Company, 7400 S. Tucson Way, Centennial, CO 80112.	2012–008.

Activity for Which Permit is Requested

Enter Antarctic Specially Protected Areas. The applicant plans to enter the Antarctic Specially Protected Areas at Beaufort Island (ASPA 105), New College Valley, Cape Bird (ASPA 116), Cape Royds (ASPA 121), Arrival Heights (ASPA 122), Cape Crozier (ASPA 124), Cape Evans (ASPA 155), and Backdoor Bay, Cape Royds (ASPA 157) for the purpose of gathering professional video footage, still photographs, and to interview scientists. Footage, pictures, interviews, and information gathered during site visits to the ASPA's could potentially be used in outreach videos, archived for future use, or be published in *the Antarctic Sun,* the official online news publication of the U.S. Antarctic Program.

Location

ASPA 105–Beaufort Island, ASPA 116–New College Valley, Cape Bird, ASPA 121–Cape Royds, ASPA 122–Arrival Heights, ASPA 124–Cape Crozier, ASPA 155–Cape Evans, ASPA 157–Backdoor Bay, Cape Royds.

Dates

October 15, 2011 to March 31, 2012.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2011–23852 Filed 9–16–11; 8:45 am]

BILLING CODE 7555–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Special Board of Directors Meeting: Sunshine Act

TIME AND DATE: 2 p.m., Thursday, July 21, 2011.

PLACE: 1325 G Street, NW., Suite 800, Boardroom, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Erica Hall, Assistant Corporate Secretary, (202) 220–2376; *ehall@nw.org.*

AGENDA:

I. Call to Order
II. Theory of Change
III. Strategic Plan, July 7 and February 23 Drafts
IV. Next Steps
V. Adjournment

Erica Hall,

Assistant Corporate Secretary.

[FR Doc. 2011–24078 Filed 9–15–11; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–3392–MLA; ASLBP No. 11–910–01–MLA–BD01]

Atomic Safety and Licensing Board; Honeywell International, Inc.; Metropolis Works Uranium Conversion Facility; Notice of Hearing

September 13, 2011.

Before Administrative Judges: Paul S. Ryerson, Chairman; E. Roy Hawkens; Paul B. Abramson.

On July 27, 2011, the Board granted [1] Honeywell International, Inc.'s

[1] LBP–11–19, 74 NRC __, __ (slip op. at 4) (July 27, 2011).

(Honeywell) request for a hearing [2] concerning a NRC Staff decision [3] denying Honeywell's license amendment request for the use of an alternate method for demonstrating decommissioning funding assurance for its Metropolis Works uranium conversion facility in Metropolis, Illinois.

Accordingly, the Board will conduct an evidentiary hearing on Honeywell's request beginning at 9 a.m. Eastern Standard Time (E.S.T.) on Thursday, December 15, 2011 in the Atomic and Safety Licensing Board Panel's Hearing Room, located on the third floor of Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20352. The hearing will resume at 9 a.m. E.S.T. on Friday, December 16, 2011, if necessary.

The Board intends to conduct a conference call with the parties at a later date to discuss further administrative details concerning the hearing.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated: September 13, 2011 in Rockville, Maryland.

Paul S. Ryerson,

Chairman, Administrative Judge.

[FR Doc. 2011–23939 Filed 9–16–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–438; NRC–2009–0093]

Tennessee Valley Authority, Bellefonte Nuclear Power Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) has prepared this Environmental Assessment (EA) associated with a request by the Tennessee Valley Authority (TVA) to extend the construction permit (CP) CPPR–122 for the Bellefonte Nuclear Plant (BLN), Unit 1 pursuant to Title 10 of *Code of Federal Regulations* (10 CFR) 50.55(b). Based on information provided in TVA's letter, dated October 8, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML102870233), and the NRC staff's independent review of references, the NRC staff did not identify any significant impact associated with the extension of the BLN Unit 1 CP. The NRC staff is documenting its environmental review in this EA.

Environmental Assessment

Plant Site and Environs

BLN Unit 1 is a pressurized-water reactor site that has been partially completed. The unit is located on a peninsula between Town Creek and the Tennessee River at River Mile 392 on the west shore of Guntersville Reservoir near Hollywood, Alabama. Most of the 1,600 acres of the site have been previously impacted by construction for both BLN Units 1 and 2.

Identification of the Proposed Action

TVA has requested extension of the CP for BLN Unit 1 from October 1, 2011, to October 1, 2020. The Atomic Energy Commission (now the NRC) issued the Final Environmental Statement (FES) in June 1974 for BLN Units 1 and 2 (1974 FES). On December 24, 1974, CPs were issued by the NRC. Much of the construction work for BLN Units 1 and 2 was subsequently completed.

The Need for the Proposed Action

The extension of the CP for BLN Unit 1 would enable TVA to complete construction of BLN Unit 1.

Environmental Impacts of the Proposed Action

This EA summarizes the radiological and nonradiological impacts to the environment that may result from the proposed extension of the CP for BLN Unit 1. Operational impacts are addressed in the TVA's May 2010 Final Supplemental Environmental Impact Statement, ''Single Nuclear Unit at the Bellefonte Plant Site'' (2010 FSEIS), attached to its letter of October 8, 2010. Therefore, operational impacts are not further discussed in this EA for the purposes of evaluating TVA's CP extension request.

Non-Radiological Impacts

Land Use and Aesthetic Impacts

Land use and aesthetic impacts from the proposed extension of the CP include impacts from completing the construction of BLN Unit 1. TVA states in its 2010 FSEIS that BLN Unit 1 is estimated to be 55-percent complete with most of the plant physical infrastructure work completed.

Remaining construction- and refurbishment-related activities at BLN Unit 1 include the need to: Rebuild the power stores warehouse building; replace the auxiliary boiler building; replace auxiliary boiler; replace two steam generators; replace the existing analog and solid state instrumentation and controls systems with digital technology; replace the turbine rotating assemblies; replace major pumps, motors, heat exchangers, tanks, and piping; refurbish major equipment, such as reactor coolant pumps, diesel generators, and plant electrical breakers; upgrade plant barge unloading dock; remove silt from the intake structure; replace electric transmission system equipment utilized for plant operation; upgrade a cooling tower; update the plant control room; build a new simulator; install an intrusion barrier for the intake pumping station and intake channel; construct security upgrades; construct nonplant-related administrative building; construct maintenance building; build construction building; construct fabrication building; construct training building; and to potentially realign the southern entrance road to a point 1,200 feet east of its existing location. Additionally, clay borrow pits may be dug in wooded areas immediately east of the main buildings. The above construction and refurbishment activities would not involve significant new land disturbing work. The work would largely be done within existing buildings and land areas previously disturbed during initial construction for the BLN units. The construction activities would use best management practices to limit the impacts from excavation including air pollutant emissions from earthwork (*i.e.,* fugitive dust), construction equipment, and workers' vehicles.

Based on the available information, the NRC concludes that there would be no significant impact on land use and aesthetic resources in the vicinity of BLN Unit 1. Land use would not change and additional work to complete BLN Unit 1 would either be confined to, or occur adjacent to, areas previously disturbed by construction activities. The majority of these impacts were assessed and documented in the 1974 FES.

Impacts on Air Quality

Main sources of potential air quality impacts from extension of the CP for BLN Unit 1 would be fugitive dust from construction activities, including exhaust emissions from motorized equipment and workers' vehicles commuting to and from the BLN site. The 1990 Clean Air Act amendments include a provision that no Federal agency shall support any activity that does not conform to a state

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[2] Request for Hearing on Denial of Decommissioning License Amendment Request (June 22, 2011).

[3] Letter from U.S. Nuclear Regulatory Commission to Honeywell International, Inc., Denial of Exemption Request from 10 CFR part 30, Appendix C, Regarding Decommissioning Financial Assurance Requirements, Honeywell Metropolis Works, Material License No. SUB–526 (TAC No. L32718) (Dec. 11, 2009) (ADAMS Accession No. ML093170604).

implementation plan (SIP) designed to achieve the National Ambient Air Quality Standards for criteria pollutants (sulfur dioxide, nitrogen dioxide, carbon monoxide, ozone, lead, and particulate matter). On November 30, 1993 (58 FR 63214), the U.S. Environmental Protection Agency (EPA) first issued a final rule implementing the new statutory requirements, effective January 31, 1994. The final rule required that Federal agencies prepare a written conformity analysis and determination for each pollutant where the total of direct and indirect emissions caused by proposed Federal action [1] would exceed established threshold emission levels in a nonattainment [2] or maintenance area.[3] In 2010, EPA issued revised General Conformity Regulations in a final rule, and effective July 6, 2010 (75 FR 17254). The latest rule, in part, adds and revises definitions relating to assessing the conformity of Federal actions with SIPs, amends 40 CFR part 51, Subpart W, and specifically identifies tribal agencies as stakeholders in the conformity process. The latest final rule still requires that Federal agencies prepare a written conformity determination for proposed actions in NAAQS nonattainment or maintenance areas for which the total of the action's direct and indirect emissions of criteria pollutants would exceed the threshold (*de minimis*) levels in 40 CFR 93.153(b) and which are not otherwise exempt, ''presumed to conform,'' or included in the existing emissions budget of the SIP or Tribal Implementation Plan.

Construction activities cause localized temporary increases in atmospheric concentrations of nitrogen oxides, carbon monoxide, sulfur dioxide, volatile organic compounds, ammonia and particulate matter PM_{10} and $PM_{2.5}$ as a result of exhaust emissions of workers' vehicles, diesel generators, and construction equipment. In accordance with the Clean Air Act, Federal agencies are prohibited from issuing a license for any activity that does not conform to an applicable implementation plan. Since the plant is located in proximity to a $PM_{2.5}$ nonattainment area that encompasses part of Jackson County, Alabama, TVA must show conformity with applicable Alabama SIPs by evaluating vehicle and equipment emissions that would occur during completion of BLN Unit 1.

During potential construction of BLN Unit 1, earthwork including some ground-clearing, grading, excavation, and movement of materials and machinery are expected to occur. These activities will raise dust. Applicable permits would need to be obtained from the Air Division of the Alabama Department of Environmental Management (ADEM). Normally, construction activities take place for a limited duration, and any impacts on air quality would not be significant.

Because the NRC staff expects that construction activities at BLN Unit 1 would conform to the Alabama SIPs, the NRC staff concludes that the impacts of construction activities on air quality would not be significant. For such activities, the NRC staff notes a variety of mitigation measures, such as wetting of unpaved roads and construction areas during dry periods and seeding or mulching cleared areas, inspection and maintenance of the gasoline or diesel fuel fired construction equipment to prevent excessive exhaust emissions, and managing shift changes for the site workforce to reduce the number of vehicles on the road at any given time, that could mitigate potential air quality impacts resulting from the potential extension and construction completion at BLN Unit 1.

Impacts on Water Resources

Discharges to surface waters are governed by the site's current National Pollutant Discharge Elimination System (NPDES) permit, and waste streams are controlled by the current Resource Conservation and Recovery Act (RCRA) permit; these permits remain active. TVA would continue to purchase drinking water from the City of Hollywood, Alabama, which is a community public water system that is regulated by the State of Alabama. TVA would continue to route wastewater from the BLN Unit 1 to the Hollywood Sewer System.

BLN Unit 1 construction activities would incorporate existing facilities and structures and use previously disturbed ground where possible. After refurbishment, BLN Unit 1 would use the existing intake channel and refurbished pumping station, cooling towers, blowdown discharge diffuser, barge unloading dock, switchyard, and transmission system.

To complete construction for BLN Unit 1, dredging would occur in the intake channel from the intake pumping station to the shoreline (a distance of approximately 1,200 feet) and would result in removal of approximately 10,000 cubic yards of dredged material. Additionally, from the shoreline boom to the main river channel (a distance of approximately 760 feet), approximately 1,100 cubic yards of dredged material would be removed for completion of construction of BLN Unit 1. No dredging in the area of the barge unloading dock would be required. Dredged material would be disposed of in an on-site spoils area above the 500-year flood elevation by TVA. During the dredging operation, temporary increases in turbidity are expected in the immediate vicinity. TVA would obtain all appropriate permits prior to dredging. The NRC staff does not expect significant or long-term water quality impacts due to the dredging. The BLN Unit 1 steam generator replacement process could entail hydrodemolition using a high-pressure water jet to remove concrete. According to TVA, the process would use approximately 450,000 gallons of water, likely from the local municipal source, and would produce a water and concrete slurry. TVA states that this one-time generation of wastewater would be captured, sampled, treated, and released through an approved NPDES discharge point. In addition, because TVA obtains water from the local municipality, no significant impacts are expected to groundwater hydrology or local groundwater users. All safety-related structures are located above the probable maximum flood and probable maximum precipitation drainage levels or are flood-proofed to the resulting levels. Also, because disturbance of wetland areas during BLN completion would be avoided or minimized and wastewater would be released in accordance with the limits specified in the NPDES permit, no significant impacts to wetlands are projected to occur.

Based on the information provided, the NRC staff expects that the impact to water resources would not be significant.

Impacts on Aquatic Resources

As indicated in the 2010 FSEIS, there would be temporary and small impacts to surface water from construction. For completion of BLN Unit 1, new

[1] Federal action means any activity engaged in by a department, agency, or instrumentality of the Federal Government, or any activity that a department, agency or instrumentality of the Federal Government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 *et seq.*). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-Federal undertaking that requires the Federal permit, license, or approval (40 CFR 93.152).

[2] An area is designated ''nonattainment'' for a criteria pollutant if it does not meet National Ambient Air Quality Standards (NAAQS) for the pollutant.

[3] A maintenance area has been redesignated by a State from nonattainment to attainment; the State must submit to EPA a plan for maintaining NAAQS as a revision to its State Implementation Plan.

construction is not expected to occur near the banks of the reservoir because intake and discharge structures are already in place. According to TVA, accidental discharge and storm water runoff are managed under the construction storm water pollution prevention plan and a site-specific spill prevention, control, and countermeasure plan, which are implemented prior to construction. Proposed refurbishment of the barge unloading dock would be performed in compliance with ADEM and applicable Alabama Department of Conservation and Natural Resources (ADCNR) and US Army Corps of Engineers permits. As previously noted, dredging of the intake channel between the intake structure and the main river channel would be performed. The intake channel was surveyed for native mussels and snails by TVA in 2009, as noted in the 2010, FSEIS. Only common species were encountered within the intake channel. TVA concluded that dredging would be expected to result in minor direct and indirect effects on aquatic communities; such communities would be expected to return to their pre-existing conditions as benthic communities recolonize the area and suspended solids settle out of the water column.

Based on the information provided, the NRC staff concludes that impacts to aquatic resources would not be significant.

Threatened and Endangered Aquatic Species

The pink mucket pearlymussel (*Lampsilis abrupta*—federally listed as endangered and hereafter referred to as pink mucket) and sheepnose mussel (*Plethobasus cyphyus*—federal candidate) were identified in the TVA Biological Assessment (BA) as occurring in areas potentially affected by construction activities at the BLN Unit 1 site, by barge deliveries during completion, or by subsequent operation of the facility. As specifically noted in the 2010 FSEIS, mussel and snail surveys in Guntersville Reservoir immediately adjacent to the site in 1995, 2007, and 2009, discovered one live pink mucket and one empty pink mucket valve. No other federally listed mussel or snail species were encountered. Habitat that could support the federal candidate sheepnose mussel was identified during this survey. On this basis, it is assumed that the sheepnose mussel, as well as pink mucket, is present within areas affected by BLN site development. Specifically, dredging the intake channel could impact the pink mucket and other mussel species in areas of better habitat downstream of the dredge area, or be affected by silting from barge towing activities. The 2010 FSEIS notes that few individuals would likely be directly harmed, but would be indirectly affected by turbulence and the suspension and deposition of fine sediments. Thus, TVA conducted formal consultation with the US Fish and Wildlife Service (USFWS) to determine reasonable and prudent measures designed to avoid or minimize take of the two mussel species that would occur in completing construction of BLN Unit 1. TVA transmitted a BA to USFWS on November 14, 2009. USFWS (Daphne, Alabama, field office) acknowledged receipt of the BA in a December 7, 2009, letter. A followup letter from the USFWS (Daphne, Alabama, field office) dated January 21, 2010, stated that only the pink mucket could be affected by the project and that there would be no effect on the federal candidate species sheepnose mussel.

USFWS issued a biological opinion (BO) for this project by letter dated April 15, 2010. The BO contains a ''take'' permit that allows for impacts to the federally listed pink mucket from completion of construction of BLN Unit 1. Due to the poor habitat quality and low densities of mussels present in the project area, and the minimal effects on pink mucket identified in the BA, TVA has committed to providing a total of $30,000 to be used for research and recovery of pink mucket, as described in the 2010 FSEIS.

Impacts on Terrestrial Resources

Although significant site construction and disturbance has been completed, limited additional impacts could occur to terrestrial vegetation and biota related to the potential realignment of 1,200 feet of the southern entrance road to the plant, and by the excavation of backfill borrow pits in a wooded area east of the existing main plant buildings. Overall, the NRC staff concludes that any additional impacts to terrestrial resources would not be significant.

Extending the CP and completing construction of the BLN Unit 1 would remain within the scope of the 1974 FES, assuming that TVA implements the preconstruction and construction monitoring program for both aquatic and terrestrial resources as described in the 1974 FES. This would also cover potential impacts to terrestrial resources from transmission line right-of-way maintenance and upgrades. The 1974 FES considered all potential impacts associated with the transmission line and noted that TVA's transmission line maintenance and construction methods, particularly overspray during herbicide applications, had resulted in damage to trees located outside of the transmission line corridor. The use of best management practices (BMPs) would mitigate potential environmental impacts from pesticide or herbicide applications.

Assuming that these practices for transmission line right-of-way would be in place if the CP for BLN Unit 1 is extended, the NRC staff concludes there would not be a significant impact on terrestrial resources, including wetland areas from transmission line maintenance and upgrade activities. By letter dated December 8, 2010, TVA confirmed that impacts to terrestrial resources would remain bounded by the assessment in the 1974 FES.

Endangered Terrestrial Species

Populations of two federally-listed endangered species, the gray bat (*Myotis grisescens*) and the Indiana bat (*Myotis sodalis*), are reported from the region but have not been documented on or within 3 miles of the BLN project area as noted and described in the 2010 FSEIS. Gray bats roost in several caves in the county and routinely forage over Guntersville Reservoir near the BLN site. No suitable roosting habitat for this species (caves) exists on the BLN property.

Small colonies of Indiana bats hibernate in caves in Jackson County. No caves occur within the project boundary; however, suitable summer roosting habitat exists in forested portions of the property within the BLN project area. Suitable habitat in the project area was examined in 2008 to assess the quality of this potential habitat for Indiana bats. Although a few moderate-quality roost trees were present, the overall habitat quality for Indiana bats was low because the subcanopy is relatively dense, and the site lacks multiple trees suitable for Indiana bat roosts. Indiana bat habitats typically roost in multiple trees having varying exposure to sunlight.

Additionally, bald eagles (*Haliaeetus leucocephalus*), which are federally protected under the *Bald and Golden Eagle Protection Act,* occur near BLN. Prior to 2009, the species was reported nesting approximately 1.4 miles east of the BLN project area.

Several Alabama state-listed species are reported from Jackson County. Of these, ospreys (*Pandion haliaetus*) are the only state-listed terrestrial animal species known from the BLN project area. Osprey nests are present on transmission line structures within the proposed project area.

Eastern big-eared bats (*Corynorhinus rafinesquii*) are reported from Jackson

County. The species has rarely been observed in recent years despite numerous cave and bat surveys performed by TVA and the ADCNR. Forested habitat within the BLN project area was examined in 2008. No potential roost trees suitable for big-eared bats (large hollow trees) were found on the site. Because big-eared bats often roost in man-made structures, an old water storage and pump facility on the property was examined for signs of bat use; no evidence of bats was identified. The closest suitable habitat for this species exists at wetlands on Bellefonte Island (mature hollow trees) in the Tennessee River and along the extensive sandstone escarpment of Sand Mountain located south and across the river from BLN.

Construction activities proposed for BLN Unit 1 are not expected to negatively affect federally- or state-listed wildlife. No suitable roosting habitat for gray bats exists on the BLN property. The proposed actions would not result in adverse impacts to roosting or foraging gray bats. Habitat potentially suitable for roosting Indiana bats would not be affected by completion of BLN Unit 1. Given the overall lack of suitable roost trees, caves, or sandstone outcrops and no evidence of bat use at the water pump facility, eastern big-eared bats are unlikely to be present, and no impacts to that species are expected.

The distance between the project area and the single known bald eagle nest is greater than the recommended nesting buffer zone (660 feet) established by National Bald Eagle Management Guidelines to protect bald eagles. Therefore, construction activities at BLN Unit 1 are not expected to have a significant impact to bald eagles. Noise is not expected to carry to nearby forested tracts that contain potential foraging habitat for some species. Infrequent activities occurring near these forested areas may cause species to leave the area temporarily, but no long-term effects on individuals or nearby populations are anticipated.

The use of habitats at BLN by federally listed and state-listed terrestrial animals is limited. Activities proposed to complete BLN Unit 1 are not expected to result in adverse direct, indirect, or cumulative impacts to federally- or state-listed terrestrial species or their habitats.

Based on this information, the NRC staff concludes that resumption of construction activities at the BLN Unit 1 site would not have a significant impact on any listed species or other species mentioned above.

Historic and Archaeological Resources

The National Historic Preservation Act (NHPA) requires Federal agencies to consider the effects of their undertakings on historic properties. Historic properties are defined as resources that are eligible for listing on the National Register of Historic Places (NRHP). The criteria for eligibility are listed in the *Code of Federal Regulations* (CFR), under Title 36, ''Parks, Forests, and Public Property,'' Part 60, Section 4, ''Criteria for Evaluation'' (36 CFR 60.4). The historic preservation review process (Section 106 of the NHPA) is outlined in regulations issued by the Advisory Council on Historic Preservation in Title 36, ''Parks, Forests, and Public Property,'' Part 800, ''Protection of Historic Properties'' (36 CFR part 800). Extension of the BLN Unit 1 CP and completion of construction at BLN Unit 1 is a Federal action that could possibly affect either known or undiscovered historic properties located on or near the plant site and its associated transmission lines. In accordance with the provisions of the NHPA, the NRC makes a reasonable effort to identify historic properties in the area of potential effect. The area of potential effect for this action is the plant site and the immediate environs.

To assess the environmental impacts to historic and archaeological resources, the NRC staff reviewed information provided by TVA in its 1974 FES, along with supplemental information provided by letter to the NRC dated October 8, 2010. Additional site details were also obtained from reviewing the Environmental Report in TVA's October 30, 2007, application for a Combined License (2007 COL ER) for Bellefonte Units 3 and 4.

In 1936, archaeological salvage excavations were conducted at the Bellefonte site associated with the construction of Guntersville Reservoir. In 1972, TVA funded an archaeological reconnaissance investigation at the Bellefonte site to locate any historic and archaeological sites that would be adversely impacted by the construction of BLN Units 1 and 2. The 1972 survey identified three new prehistoric sites (1JA300–302), and located two sites (1JA978 and 1JA112) that were previously recorded during the pre-inundation survey of Guntersville Lake according to the 1974 FES. Site 1JA978 was noted in the riverbank and contained both Archaic and Woodland artifacts. Site 1JA112 was primarily inundated; therefore, cultural affiliation could not be determined for this site. A 2006, survey conducted by TVA determined that sites 1JA978 and 1JA112 are located outside the BLN property boundary. Analysis of artifacts recovered at 1JA300 reveal that the site was occupied during the Archaic, Woodland, and Mississippian cultural periods. Since 1JA300 was going to be adversely impacted by the construction of the plant intake structure and access road, data recovery excavations were conducted on site 1JA300 in 1973, and 1974, by the University of Alabama. Information provided by TVA in its 2007 COL ER indicated that a total of 22 features and 9 burials were excavated from the site. One of these features consisted of a small structure footprint, which is indicative of village-level habitation. The human remains are located at the University of Alabama. By letter dated November 24, 2008, TVA stated that additional archaeological surveys have been conducted. In 2006, TVA conducted a survey to document and evaluate all archaeological resources at BLN. During this survey, it was determined that site 1JA300 was destroyed during construction of the intake structure and, therefore, is no longer eligible for the NRHP.

Site 1JA301 was recorded during the 1972, reconnaissance survey as surficial remains (lithic debris) dating to the Archaic period. Analysis of the lithic debris from this site suggests that it was an intermittent campsite. It was recommended that any further excavation of this site would be unproductive. The 1972, report notes that site 1JA301 was heavily disturbed and reduced to plow zone scatter of prehistoric materials. Additional testing determined that site 1JA301 was destroyed during construction of BLN Units 1 and 2 and is not eligible for inclusion in the NRHP according to the 2007 COL ER.

Site 1JA302 was purported in the 1974 FES to be remotely located relative to the construction area. Artifacts recovered from 1JA302 dated the site to the Woodland period. Limited excavation was proposed; however, further excavations were not conducted. Site 1JA302 lies outside the BLN property boundary. Site 1JA302 was determined to be eligible for inclusion on the NRHP.

Site 1JA111 is an undefined prehistoric occupation site. Additional testing was conducted at the site during the 2006 TVA survey. A total of 93 artifacts were recovered; however, no diagnostic lithic artifacts were recovered to date from the site according to the 2007 COL ER. A small number of ceramics dating to the Mississippian period were recovered. Based upon the stratigraphic profiles and patterns of

artifact recovery, TVA indicated that site 1JA111 appears to contain buried, intact archaeological deposits and has the potential to contribute significant scientific and archaeological information regarding the prehistory of the Guntersville Basin. Site 1JA111 remains potentially eligible for inclusion in the NRHP. TVA has indicated that the site will be fenced off, and marked on BLN site drawings as an area to be avoided by any future ground disturbing activities according to TVA's 2010 FSEIS.

Site 1JA113 is another undefined prehistoric occupation site. Additional testing was conducted at the site in 2006 and yielded a single prehistoric lithic flake; however, site 1JA113 does not meet the criteria of eligibility for the NRHP according to the TVA letters dated August 26, September 25, and November 24, 2008.

One historic site was identified during the 2006 survey. Site 1JA1103 consists of a collapsed structure and associated outbuilding according to the 2007 COL ER. The 2006, survey revealed that this site was used as a temporary storage and weather shelter during the construction of BLN Units 1 and 2 according to the TVA letters dated August 26, September 25, and November 24, 2008. Site 1JA1103 has had its archaeological integrity altered by the construction of BLN Units 1 and 2; therefore, the site is not eligible for inclusion in the NRHP. Regardless of the site's eligibility, TVA has indicated that the site will be avoided.

Adjacent to the BLN site was the Town of Bellefonte, the former Jackson County seat. The Town of Bellefonte is listed in the Alabama Statewide Plan of Historic Preservation and was determined eligible for inclusion on the NRHP. Among the former town buildings was a tavern that dated to 1845 according to the 1974 FES. This building and other structures associated with the Bellefonte town site were moved in 1974. The town site is not on TVA property, and the buildings were removed by the owners according to the TVA letter dated August 26, 2002.

The BLN site was heavily disturbed by the construction of BLN Units 1 and 2, which began in the 1970s. Extension of the CP and completing construction of BLN Unit 1 could involve some excavation and construction in previously undisturbed areas of the site. NRC staff expects that for areas not previously surveyed, an archaeological investigation would be conducted by a qualified archaeologist prior to performing any ground-disturbing activities. Additionally, since TVA is a Federal agency, NHPA Section 106 review and consultation with the Alabama Historical Commission would be initiated for such activities.

Based on the information provided in the 1974 FES, 2010 FSEIS, and TVA's subsequent responses to the NRC's requests for additional information (RAIs) in letters dated August 26,2002, and November 24, 2008, the NRC staff finds that the potential impacts of extending the CP and completing construction of BLN Unit 1 would not have a significant impact on historic and archaeological resources.

Socioeconomic Impacts

Socioeconomic impacts from the proposed extension of the CP and completing the construction of BLN Unit 1 include an increase in the size of the workforce at BLN and associated increased demand for public services and housing in the region.

In the 2010 FSEIS, TVA estimated that the workforce needed to complete the construction of BLN Unit 1 could peak at about 3,000 workers; comprised of approximately 1,900 construction workers, and the remaining 1,100 workers including engineering operations, testing, and security workforce. Most construction workers would relocate temporarily to Jackson County resulting in a small, short-term increase in population along with increased demands for public services and housing.

Because construction work would be short-term (approximately 56 months), most construction workers would likely stay in rental homes, apartments, mobile homes, and camper-trailers. According to U.S. Census Bureau (USCB) American Community Survey 3-year estimate (2007–2009) data, there were 3,539 vacant housing units in Jackson County, up from 2,553 based on the 2000 Census. Based on a review of the information provided by TVA and relevant census data, the NRC staff concludes that extending the CP and completing the construction of BLN Unit 1 would not result in a significant adverse socioeconomic impact.

Environmental Justice

The environmental justice impact analysis evaluates the potential for disproportionately high and adverse human health and environmental effects on minority and low-income populations that could result from extending the CP and completing the construction of BLN Unit 1. Adverse health effects are measured in terms of the risk and rate of fatal or nonfatal adverse impacts on human health.

Disproportionately high and adverse human health effects occur when the risk or rate of exposure to an environmental hazard for a minority or low-income population is significant and exceeds the risk or exposure rate for the general population or for another appropriate comparison group. A disproportionately high environmental impact that is significant refers to an impact or risk of an impact on the natural or physical environment in a low-income or minority community that appreciably exceeds the environmental impact on the larger community. Such effects may include ecological, cultural, human health, economic, or social impacts. Some of these potential effects have been identified in resource areas discussed in this EA. For example, increased demand for rental housing during construction could disproportionately affect low-income populations. Minority and low-income populations are subsets of the general public residing around BLN, and all are exposed to the same health and environmental effects generated from construction activities at BLN.

Minority populations in the vicinity of BLN—According to 2000 census data, 18.9 percent of the population (approximately 1,083,000 individuals) residing within a 50-mile radius of BLN identified themselves as minority individuals. The largest minority group was Black or African American (157,000 persons or 14.5 percent), followed by Hispanic or Latino of any race (24,000 or about 2.2 percent). In 2000, about 8.8 percent of the Jackson County population identified themselves as minorities, with Black or African American the largest minority group (3.7 percent) followed by American Indian and Alaskan Native (1.7 percent) and Hispanic or Latino (1.9 percent) based on 2010 USCB data. According to USCB American Community Survey 3-year estimate (2007–2009) data, the minority population of Jackson County, as a percent of total population, had increased to 9.8 percent.

Low-income populations in the vicinity of BLN—Using 2000 census data, approximately 32,000 families and 143,000 individuals (approximately 10.5 and 13.2 percent, respectively) residing within a 50-mile radius of BLN were identified as living below the Federal poverty threshold in 1999. The 1999, Federal poverty threshold was $17,029 for a family of four.

Based on USCB 3-year estimate data, the median household income for Alabama spanning 2007–2009 was $41,458, while 16.7 percent of the state population and 12.7 percent of families were determined to be living below the Federal poverty threshold. Jackson County had a lower median household

income ($34,310) and a slightly lower percentage (16.2 percent) of individuals but a higher percentage of families (13.4 percent) living below the poverty level.

Impact Analysis—Potential impacts to minority and low-income populations due to the extension of the CP and completing the construction of BLN Unit 1 would mostly consist of environmental and socioeconomic effects (*e.g.,* noise, dust, traffic, employment changes, and housing impacts).

Since much of the construction work at BLN has been completed, noise and dust impacts would be short-term and limited to onsite activities. Minority and low-income populations residing along site access roads could experience increased commuter vehicle and truck traffic during shift changes. As employment increases at BLN during completion of BLN Unit 1, employment opportunities for minority and low-income populations may also increase. Increased demand for rental housing during peak construction could disproportionately affect low-income populations. However, according to the latest available USCB information (2007–2009 estimates), there were some 3,500 vacant housing units in Jackson County.

Based on this information and the analysis of human health and environmental impacts presented in this EA, there would be no disproportionately high and adverse impacts to minority and low-income populations from the extension of the CP and completing construction of BLN Unit 1.

Nonradiological Impacts Summary

Extension of the CP for BLN Unit 1 would not result in a significant change in nonradiological impacts in the areas of land use, water use, waste discharges, terrestrial and aquatic biota, transmission facility operation, social and economic factors, and environmental justice related to resumption of construction operations at the BLN site. No other nonradiological impacts were identified or would be expected. Table 1 summarizes the nonradiological environmental impacts of the proposed extension of the CP and construction completion for BLN Unit 1.

TABLE 1—SUMMARY OF NONRADIOLOGICAL ENVIRONMENTAL IMPACTS

Land Use	No changes in land use conditions or significant impacts on aesthetic resources in the vicinity of BLN.
Air Quality	No significant impacts from vehicular and equipment emissions, and impacts are expected to be controlled within applicable regulatory requirements.
Water Resources	No significant impacts from construction due to dredging and water use.
Aquatic Resources	No significant impact from site runoff to benthic communities or from intake channel dredging.
Terrestrial Resources	Vegetation clearing and ground disturbance in previously undisturbed areas would not have a significant impact.
Threatened and Endangered Species	No significant direct, indirect, and cumulative impacts to the pink mucket mussel from dredging and towing barges.
Transmission Line Maintenance	No significant impact to terrestrial and aquatic resources based on the use of BMPs.
Historic and Archaeological Resources	No significant impact to historic and archaeological resources in the vicinity of BLN. Historic site 1JA111 would be marked and avoided.
Socioeconomics	No significant impacts from construction.
Environmental Justice	There would be no disproportionately high and adverse impact on minority and low-income populations in the vicinity of BLN.

Radiological Impacts

Radioactive Effluent and Solid Waste Impacts

Nuclear power plants use waste treatment systems designed to collect, process, and dispose of gaseous, liquid, and solid wastes that might contain radioactive material in a safe and controlled manner such that discharges are in accordance with the requirements of 10 CFR Part 20, ''Standards for Protection Against Radiation,'' and 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' Appendix I.

Since construction activities will not involve the generation of radioactive effluent and solid waste, the staff determined that extension of the CP and construction of BLN Unit 1 would not result in any radiological effluent and solid waste since BLN Unit 1 would not be operating. As previously discussed, disposal of hazardous chemicals used at nuclear power plants are regulated by RCRA or NPDES permits.

Occupational Radiation Doses

Plant workers conducting activities involving radioactively contaminated systems or working in radiation areas can be exposed to radiation. However, extension of the CP and construction activities for BLN Unit 1 will not involve any radioactive material; the NRC staff determined that occupational doses would be maintained within the limits of 10 CFR part 20 for the extension of the CPs and construction of BLN Unit 1.

Public Radiation Doses

Since construction activities will not involve any radioactive material, the staff determined that public radiation doses would be maintained within the limits of 10 CFR part 20 for the extension of the CP and construction of BLN Unit 1.

Postulated Accident Doses

Since construction activities will not involve any radioactive material or operation of BLN Unit 1, the staff concludes that there would be no postulated accident doses for the extension of the CP and construction of BLN Unit 1.

Uranium Fuel Cycle and Transportation Impacts

Since construction activities will not involve radioactive material or operation of BLN Unit 1, the NRC staff concluded that there would be no environmental impact of the fuel cycle and transportation of fuels and wastes for the extension of the CP and construction of BLN Unit 1.

Radiological Impacts Summary

The proposed extension of the CP and construction of BLN Unit 1 would not result in a significant impact associated with radiological effluents and solid waste, occupational and public radiation exposure, or the uranium fuel cycle and transportation.

Accordingly, the NRC staff concludes that there are no significant impacts associated with the proposed extension of the CP and construction of BLN Unit 1. Table 2 summarizes the radiological environmental impacts of the proposed

extension of the CP and construction of BLN Unit 1.

TABLE 2—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS

Occupational Radiation Doses	No significant impacts.
Public Radiation Doses	No significant impacts.
Postulated Accident Doses	No significant impacts.
Uranium Fuel Cycle and Transportation Impacts	No significant impacts.

Cumulative Impacts

A cumulative impact is defined in Council on Environmental Quality regulations (40 CFR 1508.7) as ''an impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions.'' The NRC staff has considered past, present, and reasonably foreseeable future actions in this review for cumulative impacts on the environment. Should TVA receive approval by the NRC and decide to construct one or more new nuclear power plant units at the Bellefonte site (BLN Unit 1 and/or Unit 2), the cumulative impact would result from construction activities in the immediate vicinity of the site.

The NRC staff has conducted a review of past, present, and the foreseeable future action of extension of the CP and construction for BLN Unit 1. Cumulative impacts associated with the completion of construction of BLN Unit 1 were evaluated for each resource area with the following noteworthy findings. No significant direct, indirect, and cumulative impacts are expected to the pink mucket mussel from dredging and towing barges. USFWS issued a BO for BLN Unit 1 by letter dated April 15, 2010. The BO contains a ''take'' permit that allows for impacts to the federally listed pink mucket under construction of BLN Unit 1. Due to the poor habitat quality and low densities of mussels present in the project area, and the minimal effects on pink mucket identified in the BA, TVA has committed to providing a total of $30,000 to be used for research and recovery of pink mucket.

Several other actions contemplated by TVA may contribute to cumulative impacts in conjunction with BLN Unit 1, as described in TVA's responses to NRC's RAIs in letters dated August 26, 2002, and November 24, 2008. If construction resumes, TVA may eventually move (relocate) the first half mile of the south entrance road such that it would still join Jackson County Highway 33, but to an intersection that is about 1,200 feet east of the current connection point. This change would improve traffic visibility and, thereby, increase commuter safety. Some new ground would be disturbed for this road but there are no associated significant environmental impacts.

In addition, new clay backfill borrow pits may be required to support the completion of BLN Unit 1. These would likely be excavated in undisturbed ground east of the main plant buildings. The topsoil would be removed temporarily and replaced to restore the sites after clay removal. Tree cover would be removed in this process.

Other foreseeable potential construction activities on disturbed ground include installing additional waste tanks adjacent to the Unit 1 reactor building and constructing a new power stores building. Also, new plant security requirements would necessitate changes to the gatehouse and protected area fencing.

Based on the above, it is anticipated that potential cumulative impacts from extension of the CP and construction of BLN Unit 1 would not be significant.

One of the considered actions involves an application to build two new nuclear units at the Bellefonte site (BLN Units 3 and 4). By letter dated October 30, 2007, TVA submitted its application for a Combined License (COL) for Bellefonte Units 3 and 4.

On September 29, 2010, TVA requested that the NRC defer its COL review efforts for BLN Units 3 and 4.

At this juncture, the extension of the CP and construction completion of BLN Unit 1 does not constitute a ''proposal'' that is interdependent with the BLN Units 3 and 4 COL application that is before the agency. The TVA request to extend the CP for BLN Unit 1 fails to constitute a ''proposal'' of the type that would trigger a National Environmental Policy Act (NEPA) cumulative impact analysis regarding Unit 1 in the NEPA analysis for proposed BLN Units 3 and 4. If construction activities resume for BLN Unit 1, TVA would need to assess the BLN Unit 1 construction impacts relative to BLN Units 3 and 4.

Alternatives to the Proposed Action

An alternative to the proposed action of extending the CP for BLN Unit 1 would be to deny the request of extending the CP. This option would not eliminate the environmental impacts of construction that have already occurred, and would only limit the additional construction that has been determined to largely have no significant incremental environmental impacts on affected resources, including land use, air quality, water resources, aquatic and terrestrial resources including endangered species, socioeconomic conditions, minority and low-income populations, and human health.

Another alternative to the proposed action of extending the CP for BLN Unit 1 to October 1, 2020, would be to issue a CP extension for a shorter duration. This option is not feasible due to procurement of long-lead components, engineering, design, and construction.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the original FES for construction.

TVA considered a number of alternatives to constructing and operating BLN Units 1 and 2 in its 1974 FES, including various sources of base load generation and alternative plant locations. TVA considered alternatives to nuclear generation, including energy sources not requiring new generating capacity, alternatives requiring new generating capacity, and combinations of alternatives. Alternative sites for additional nuclear generation were also considered.

TVA considered several alternatives that could potentially replace new generating capacity, such as power purchases, repowering electrical generating plants, and energy conservation.

TVA also considered whether building new nonnuclear capacity would address the need for new capacity, such as fossil fuel, wind, solar, biomass, and hydropower.

Combining alternatives could achieve an energy profile similar to base load operation. Combinations can utilize

storage technology with wind or solar technology or augment the variability of wind and solar power with the dispatchability of fossil generation (coal and gas) or biomass generation.

TVA concluded that constructing BLN Unit 1 is the preferred option.

Agencies and Persons Consulted

In accordance with its stated policy, on October 15, 2008, the NRC staff consulted with the Alabama State officials, Mr. Keith Hudson and Ms. Ashley Peters, of the Alabama Department of Conservation and Natural Resources, regarding the environmental impact of the proposed action. The state officials had no comments.

Finding of No Significant Impact

On the basis of the EA, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter, dated October 8, 2010. Documents may be examined, and/or copied for a fee, at the NRC's PDR, located at One White Flint North, Room O1–F21, (first floor), 11555 Rockville Pike, Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr.Resource@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of September 2011.

For the Nuclear Regulatory Commission.

Stephen J. Campbell,

Chief, Special Projects Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2011–23966 Filed 9–16–11; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–67; Order No. 851]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Burnt Prairie, Illinois 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*): September 23, 2011; *deadline for notices to intervene:* October 11, 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 September 8, 2011, the Commission received a petition for review of the Postal Service's determination to close the Burnt Prairie post office in Burnt Prairie, Illinois. The petition was filed by Steven L. Whetstone (Petitioner) and is postmarked August 27, 2011. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2011–67 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 October 13, 2011.

Categories of issues apparently raised. Petitioner contends that: (1) The Postal Service failed to consider the effect of the closing on the community (*see* 39 U.S.C. 404(d)(2)(A)(i)); and (2) the Postal Service failed to consider whether or not it will continue to provide a maximum degree of effective and regular postal services to the community (*see* 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 those 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 September 23, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this Notice is September 23, 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., eastern time, 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 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 October 11, 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 September 23, 2011.

2. Any responsive pleading by the Postal Service to this notice is due no later than September 23, 2011.

3. The procedural schedule listed below is hereby adopted.

4. Pursuant to 39 U.S.C. 505, Patricia A. Gallagher 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**.

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

September 8, 2011	Filing of Appeal.
September 23, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
September 23, 2011	Deadline for the Postal Service to file any responsive pleading.
October 11, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
October 13, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
November 2, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
November 17, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
November 25, 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).
December 27, 2011	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2011–23980 Filed 9–16–11; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. A2011–66; Order No. 850]

Post Office Closing

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: This document informs the public that an appeal of the closing of the Meridian, New York 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*): September 22, 2011; *deadline for notices to intervene:* October 11, 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 September 7, 2011, the Commission received a petition for review of the Postal Service's determination to close the Meridian post office in Meridian, New York. The petition was filed online by Beth Dishaw (Petitioner) who also requests an application for suspension of the determination. The Commission hereby institutes a proceeding under 39 U.S.C. 404(d)(5) and establishes Docket No. A2011–66 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 October 12, 2011.

Categories of issues apparently raised. Petitioner contends 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 September 22, 2011. *See* 39 CFR 3001.113. In addition, the due date for any responsive pleading by the Postal Service to this Notice is September 22, 2011.

Application for Suspension of Determination. In addition to her Petition, Beth Dishaw requests an application for suspension of the Postal Service's determination (*see* 39 CFR 3001.114). Commission rules allow for the Postal Service to file an answer to such application within 10 days after the application is filed. The Postal Service shall file an answer to the application no later than September 19, 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., eastern time, 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 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 October 11, 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 an answer to the application for suspension of the Postal Service's determination no later than September 19, 2011.

2. The Postal Service shall file the applicable administrative record regarding this appeal no later than September 22, 2011.

3. Any responsive pleading by the Postal Service to this notice is due no later than September 22, 2011.

4. The procedural schedule listed below is hereby adopted.

5. 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.

6. The Secretary shall arrange for publication of this notice and order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

PROCEDURAL SCHEDULE

September 7, 2011	Filing of Appeal.
September 22, 2011	Deadline for the Postal Service to file the applicable administrative record in this appeal.
September 22, 2011	Deadline for the Postal Service to file any responsive pleading.
October 11, 2011	Deadline for notices to intervene (*see* 39 CFR 3001.111(b)).
October 12, 2011	Deadline for Petitioners' Form 61 or initial brief in support of petition (*see* 39 CFR 3001.115(a) and (b)).
November 1, 2011	Deadline for answering brief in support of the Postal Service (*see* 39 CFR 3001.115(c)).
November 16, 2011	Deadline for reply briefs in response to answering briefs (*see* 39 CFR 3001.115(d)).
November 23, 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).
January 5, 2012	Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(d)(5)).

[FR Doc. 2011–23986 Filed 9–16–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29787; 812–13891]

Investment Managers Series Trust, et al.; Notice of Application

September 13, 2011.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: Investment Managers Series Trust (the ''Trust'') and Palmer Square Capital Management LLC (''Palmer Square'').

DATES: *Filing Dates:* The application was filed on April 8, 2011, and amended on June 8, 2011 and August 15, 2011.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 11, 2011, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: c\o Laurie A. Dee, Esq., Bingham McCutchen LLP, Plaza Tower, 18th Floor, 600 Anton Boulevard, Costa Mesa, CA 92626.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 551–6815, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a Delaware statutory trust, is registered under the Act as an open-end management investment company and is comprised of 35 series, including the Palmer Square Absolute Return Fund (''PS Fund'').[1] Palmer

[1] Applicants also request relief with respect to existing and future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is

Continued

Square is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as the investment adviser to the PS Fund. Any other Adviser will be registered as an investment adviser under the Advisers Act. An Adviser will serve as the investment adviser to each Fund pursuant to an investment advisory agreement (the ''Advisory Agreement'') with the Fund. Each Advisory Agreement will be approved by the board of trustees of the Trust (''Board''),[2] including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust or the Adviser (''Independent Trustees'') and by the initial shareholder of the Fund.

2. Under the terms of each Advisory Agreement, the Adviser, subject to the oversight of the Board, will be responsible for the overall management of each Fund's business affairs and selecting the Funds' investments in accordance with its investment objectives, policies and restrictions. For the investment management services that it provides to the Fund, an Adviser will receive the fee specified in the Advisory Agreement. The Advisory Agreement also permits the Adviser to retain one or more subadvisers, at its own cost and expense, for the purpose of managing the investment of all or a portion of the assets of a Fund. Pursuant to this authority, the Adviser will enter into investment subadvisory agreements (''Subadvisory Agreements'') with certain unaffiliated subadvisers (each, a ''Subadviser'') to provide investment advisory services to the Funds. Palmer Square currently employs seven Subadvisers for the PS Fund. Each Subadviser is and each future Subadviser will be registered as an investment adviser under the Advisers Act. The Adviser will supervise, evaluate and allocate assets to the Subadvisers, and make recommendations to the Board about their hiring, retention or termination, at all times subject to the authority of the Board.

3. Applicants request an order to permit the Adviser, subject to Board approval, to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Fund or the Adviser, other than by reason of serving as a subadviser to the Fund (''Affiliated Subadviser'').

4. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose fees paid by the Adviser to the Subadvisers. An exemption is requested to permit each Fund to disclose (as both a dollar amount and as a percentage of the respective Fund's net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Subadvisers; and (b) the aggregate fees paid to Subadvisers (collectively, ''Aggregate Fee Disclosure''). Any Fund that employs an Affiliated Subadviser also will provide separate disclosure of any fees paid to any Affiliated Subadviser.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders are relying on the Adviser's expertise to select one or more Subadvisers best suited to achieve a Fund's investment objectives. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisers is substantially equivalent to that of the individual portfolio managers employed by traditional advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would subject a Fund to expenses and delays and may preclude the Adviser from acting promptly. Applicants note that the Advisory Agreement and any subadvisory agreement with an Affiliated Subadviser will remain subject to section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that Subadvisers use a ''posted'' rate schedule to set their fees. Applicants state that, while Subadvisers are willing to negotiate fees lower than those posted in the schedule, they are reluctant to do so where the fees are disclosed to the public and other Subadvisers. Applicants submit that the requested relief will allow the Adviser to negotiate more effectively with Subadvisers.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding

advised by Palmer Square or any entity controlling, controlled by or under common control with Palmer Square or its successors (any such entity, together with Palmer Square, an ''Adviser''); (b) uses the manager of managers structure described in the application (the ''Manager of Managers Structure'') and (c) complies with the terms and conditions of the application (together with the PS Fund, the ''Funds'' and each, individually, a ''Fund''). For the purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. All entities that currently intend to rely on the requested relief are named as applicants. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser that serves as the primary adviser to the Fund will precede the name of the Subadviser.

[2] The term ''Board'' also includes the board of trustees or directors of a future Fund.

voting securities, as defined in the Act, or in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering shares of that Fund to the public.

2. Each Fund relying on the requested order will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as utilizing the Manager of Managers Structure. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Within 90 days of the hiring of a new Subadviser, Fund shareholders will be furnished all information about the new Subadviser that would be included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. This information will include Aggregate Fee Disclosure and any change in disclosure caused by the addition of the new Subadviser. To meet this obligation, each Fund will provide shareholders, within 90 days of the hiring of a new Subadviser, an information statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

4. An Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Whenever a subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

8. Each Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. An Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's assets and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of each Fund's assets; (c) allocate and, when appropriate, reallocate each Fund's assets among one or more Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No Trustee or officer of the Trust or a Fund, or director, manager, or officer of an Adviser, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by, or is under common control with a Subadviser.

12. Each Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23982 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65221; File No. SR–FINRA–2011–042]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee for the Operations Professional Examination

August 30, 2011.

Correction

In notice document 2011–22764 appearing on pages 55441–55445 in the issue of September 7, 2011, make the following correction:

On page 55441, in the third column, the File No. in the heading is corrected to read as set forth above.

[FR Doc. C1–2011–22764 Filed 9–16–11; 8:45 am]

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65338; File No. SR–OCC–2011–12]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Adopt Fitness Standards for Directors, Clearing Members, and Others

September 14, 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 August 31, 2011, The Options Clearing Corporation (''OCC'') 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 OCC. 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 establish fitness standards for directors, clearing members, and others.

[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, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to facilitate compliance by OCC with new core principles (''Core Principles'') applicable to derivatives clearing organizations (''DCOs'') that are set forth in the CEA, as amended by the Dodd-Frank Act. In particular, new DCO Core Principle O requires DCOs to establish fitness standards for directors, clearing members and certain other individuals.

Background

The Core Principles for DCOs are set forth in the CEA and consist of a number of governing principles to which a DCO is required to adhere. OCC is registered as a DCO with the Commodity Futures Trading Commission (the ''CFTC'') under Section 5b of the CEA, and clears commodity futures and commodity options traded on five futures exchanges subject to the CFTC's jurisdiction. Title VII of the Dodd-Frank Act amended the CEA to expand existing Core Principles and to add certain new Core Principles. The applicable Dodd-Frank amendments to the CEA become effective July 16, 2011. In January 2011, the CFTC published proposed rules (the ''Proposed Rules'') to implement the Core Principles, as amended and expanded by the Dodd Frank Act. The Proposed Rules propose certain minimum criteria for complying with the Core Principles, and propose certain clarifications of the more ambiguous provisions of the Core Principles. The Proposed Rules have not been adopted and will not be effective until 60 days following the date on which the CFTC publishes final rules implementing the Core Principles.

Core Principle O provides that each DCO must: (i) Establish governance arrangements that are transparent (I) to fulfill public interest requirements and (II) to permit the consideration of the views of both owners and participants, and (ii) establish and enforce appropriate fitness standards for (I) directors, (II) members of any disciplinary committee, (III) members of the DCO, (IV) any other individual or entity with direct access to the settlement or clearing activities of the DCO, and (V) any party affiliated with any of the above. OCC's existing governance arrangements satisfy the transparency requirements of subparagraph (i) of Core Principle O. OCC is proposing to adopt the Fitness Standards in order to assure compliance with subparagraph (ii) of Core Principle O.

Description of Proposed Fitness Standards

The proposed Fitness Standards, which are attached as Exhibit 5 to this rule filing, comply with Core Principle O by establishing minimum standards for directors and clearing members, as well as affiliates of such directors and clearing members.[3] The proposed Fitness Standards are generally similar to fitness standards adopted by the Depository Trust and Clearing Corporation.

The Fitness Standards incorporate the Proposed Rule's minimum fitness standards for directors and clearing members, including the basis for refusal to register a person under Section 8a(2) of the CEA and, for directors only, the absence of a significant history of serious disciplinary offences, such as those that would be disqualifying under Section 1.63 of the CFTC's regulations. The Fitness Standards do not establish criteria for members of the disciplinary committee or for persons ''with direct access to the settlement or clearing activities'' of OCC (''Access Persons''). In OCC's case, all members of disciplinary committees[4] are directors of the Corporation and will be subject to the Fitness Standards as such. With respect to Access Persons, neither the CEA nor the Proposed Rules provide any explicit guidance as to the persons intended to be included in the phrase ''any other individual or entity with direct access to the settlement or clearing activities of the [DCO].'' Similarly, the term ''direct access'' is not defined in the CEA or the Proposed Rules. However, Core Principle O is closely modeled on existing designated contract market (''DCM'') Core Principle 14, which also requires that fitness standards be established for directors, members and ''any other persons with direct access to the facility.'' The CFTC has previously issued guidance on DCM Core Principle 14 and interpreted ''persons with direct access to the facility'' to include ''non-member market participants who are not intermediated and do not have [member] privileges, obligations, responsibilities or disciplinary authority.'' This interpretation suggests that ''access'' is intended to mean the type of access that a member would have. OCC believes that by analogy ''persons with direct access to the settlement or clearing activities'' of a DCO, as used in Core Principle O, is intended to refer to persons with access to submit transactions for clearing or to give instructions to OCC regarding accounts or transactions or otherwise have access to the clearing system in a manner similar to the access that a Clearing Member would have. OCC also does not read ''any other individual or entity with direct access to the settlement or clearing activities of the [DCO]'' to include OCC employees or service providers such as settlement banks. Accordingly, OCC believes that there are presently no persons with ''direct access'' to the settlement and clearing activities of OCC other than clearing members.

Proposed By-Law Changes

Article III (Board of Directors) and Article V (Clearing Members) set forth qualifications for directors and clearing members, respectively. The Interpretations and Policies under the appropriate sections of both Articles are being amended to incorporate the applicable Fitness Standards by reference.

OCC believes that the proposed changes to its By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Exchange Act, because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest. The proposed rule change is not inconsistent with any rules of OCC.

[3] Pursuant to a conversation among OCC, the Commission and the CFTC, the CFTC has indicated that the proposed rule change may become effective after July 16, 2011 without impacting OCC's status as a DCO.

[4] OCC has no standing disciplinary committee. Disciplinary committees are formed on an *ad hoc* basis. *See* OCC Rule 1202(a).

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC 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 were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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 Commissions 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–OCC–2011–12 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–OCC–2011–12. 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 OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_11_12.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–OCC–2011–12 and should be submitted on or before October 11, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23976 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65325; File No. SR–CBOE–2011–085]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Concerning the Clearing Trading Permit Holder Proprietary Transaction Fee Waiver for Orders in Multiply-Listed FLEX Options Classes

September 12, 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 August 31, 2011, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 1, 2011, the Exchange implemented a waiver of the Clearing Trading Permit Holder (''CTPH'') Proprietary Transaction Fee (the ''Fee'') for CTPHs executing facilitation orders in multiply-listed FLEX Options classes (the ''Waiver'').[3] At that time, the Exchange intended to exclude from the Waiver such orders originating from joint back-office (''JBO'') participants, but due to an oversight, such orders were not excluded. Therefore, the Exchange now proposes to amend the Waiver to exclude such orders originating from JBO participants.

A JBO is an arrangement whereby a broker/dealer maintains a nominal ownership interest in its clearing firm. The clearing firm will issue a special class of non-voting preferred stock to other broker/dealers that clear their proprietary positions through the clearing firm. JBO participants are not considered self-clearing for any purpose other than the extension of credit under CBOE Rule 12.3 or under comparable

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–65007 (August 2, 2011), 76 FR 48190 (August 8, 2011) (SR–CBOE–2011–071).

rules of another self-regulatory organization.[4]

JBOs are separate entities from the CTPHs with which they maintain an arrangement, and do not have a complete common identity of ownership with the CTPHs. JBOs take advantage of the exposure across the market that CTPHs afford and use CTPHs for margin relief. While JBO trades come into market with the same origin code as CTPHs, these trades are executed on behalf of the JBO and not the CTPHs. CTPHs have various obligations, such as clearing accounts and settling trades, and must abide by certain requirements, such as those regarding books and records, and risk analysis, that JBOs do not. Moreover, unlike CTPHs, JBOs do not guarantee performance on contracts, and if a JBO backs out of a position or otherwise cannot maintain a position that the JBO had taken, the CTPH is still on the hook to maintain that JBO position. Also, unlike CTPHs, JBOs are not self-clearing for the purposes of facilitation.[5] Further, CTPHs must work with the Options Clearing Corporation (''OCC'') to clear trades and satisfy OCC requirements on subjects such as capital requirements, which JBOs do not need to satisfy. In recognition of the obligations and liabilities that CTPHs possess and which JBOs do not possess, and because JBOs are not self-clearing for the purposes of facilitation, the Exchange does not at the present time desire to provide the Waiver to JBOs, and therefore proposes to exclude JBOs from the Waiver. Finally, the Exchange currently excludes JBO orders from the Fee Cap and Sliding Scale.[6] Excluding JBOs from the Waiver helps to achieve a level of consistency in the Fees Schedule.

As previously stated, JBO trades come into the market with the same origin code as CTPHs. However, CTPHs may possess different clearing firm numbers; each CTPH has a number for its own trades, and a different number for each JBO. Therefore, JBO trades will be identified and differentiated from CTPH trades by these different numbers.

The proposed rule change would take effect on September 1, 2011.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4)[8] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders and other persons using Exchange facilities. The Exchange believes that amending the Waiver to exclude JBO orders is reasonable because the amount of the fee, either $0.20 or $0.25 per contract (depending on the product), is within the range of fees assessed by the Exchange for other orders charged to other market participants for the same product.[9] Indeed, up until August 1, 2011 (one month ago), when the Waiver was instituted and unintentionally included JBO trades, JBOs paid this amount for firm facilitation orders in multiply-listed FLEX Options classes.

The Exchange believes amending the Waiver to exclude JBO orders is equitable and not unfairly discriminatory because, unlike CTPHs, JBOs are not self-clearing for the purposes of facilitation,[10] and because CTPHs have a number of obligations, responsibilities and liabilities that JBOs do not possess. These obligations include clearing accounts, settling trades, and must abide by certain requirements, such as those regarding books and records, and risk analysis. Moreover, unlike CTPHs, JBOs do not guarantee performance on contracts, and if a JBO backs out of a position or otherwise cannot maintain a position that the JBO had taken, the CTPH is still on the hook to maintain that JBO position. Further, CTPHs must work with the OCC to clear trades and satisfy OCC requirements on subjects such as capital requirements, which JBOs do not need to satisfy. In recognition of the obligations and liabilities that CTPHs possess and which JBOs do not possess, and because JBOs are not self-clearing for the purposes of facilitation, the Exchange believes it is equitable and not unfairly discriminatory to exclude JBOs from the Waiver. Finally, the Exchange currently excludes JBO orders from the Fee Cap and Sliding Scale.[11] Excluding JBOs from the Waiver helps to achieve a level of consistency in the Fees Schedule.

The Exchange operates in a highly competitive market in which sophisticated and knowledgeable market participants readily can, and do, send order flow to competing exchanges based on fee levels. The Exchange believes that the fees it assesses must be competitive with fees assessed on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees present on the Exchange today and influences the proposals set forth above.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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 solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A) of the Act[12] and subparagraph (f)(2) of Rule 19b–4[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.

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

[4] *See* CBOE Rule 13.4, Interpretation and Policy .01.

[5] *See* CBOE Rule 13.4, Interpretation and Policy .01.

[6] *See* Exchange Fees Schedule section regarding the Multiply-Listed Options Fee Cap and the CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] *See* Exchange Fees Schedule, Section 1.

[10] *See* CBOE Rule 13.4, Interpretation and Policy .01.

[11] *See* Exchange Fees Schedule section regarding the Multiply-Listed Options Fee Cap and the CBOE Proprietary Products Sliding Scale for Clearing Trading Permit Holder Proprietary Orders.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

Number SR–CBOE–2011–085 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–CBOE–2011–085. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2011–085 and should be submitted on or before October 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23897 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65330; File No. SR–BX–2011–046]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend the BOX Fee Schedule With Respect to Credits and Fees for Transactions in the BOX Price Improvement Period

September 13, 2011.

I. Introduction

On July 15, 2011, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Fee Schedule of the Boston Options Exchange Group, LLC (''BOX'') to increase the credits and fees for certain transactions in the BOX Price Improvement Period (''PIP'').[3] The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[4] Notice of filing of the proposed rule change was published in the **Federal Register** on August 3, 2011.[5]

Under Section 19(b)(3)(C) of the Act, the Commission is (1) hereby temporarily suspending File No. SR–BX–2011–046, and (2) instituting proceedings to determine whether to approve or disapprove File No. SR–BX–2011–046.

II. Summary of the Proposed Rule Change

The Exchange proposes to increase the credits and fees for certain transactions in the PIP by modifying Section 7d of the BOX Fee Schedule. Specifically, the Exchange proposes to: (1) Increase both the credits and the fees for PIP transactions in classes that are not subject to the Penny Pilot (''Non-Penny classes'') from $0.30 to $0.75 per contract; and (2) increase both the credits and the fees for PIP transactions in Penny Pilot classes where the trade price is equal to or greater than $3.00 per contract (other than in QQQQ, SPY, and IWM) from $0.30 to $0.75 per contract. The credits and the fees for PIP transactions in QQQQ, SPY, and IWM and in all other Penny Pilot classes where the trade price is less than $3.00 per contract will remain at $0.30 per contract. The credits are paid by the Exchange on the agency order that is submitted to the PIP auction on behalf of a customer. The fees are charged by the Exchange to the order that is executed against the agency order, whether such order is a paired order submitted by the BOX Options Participant that also submitted the agency order or an order submitted by another BOX Options Participant in response to the PIP auction. The credits and fees are in addition to any applicable trading fees, as described in Sections 1 through 3 of the BOX Fee Schedule.[6]

III. Suspension of SR–BX–2011–046

Pursuant to Section 19(b)(3)(C) of the Act,[7] at any time within 60 days of the date of filing a proposed rule change pursuant to Section 19(b)(1) of the Act,[8] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization 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.

The Commission believes it is appropriate to evaluate the effect of the proposed rule change on competition among different types of market participants and on market quality, particularly with respect to the net fee differential that it would place on BOX Options Participants that respond to a PIP auction (''PIP Responders'') compared to a BOX Options Participant that initiated the PIP auction (''PIP Initiator''). Under the proposed rule change, the Exchange would charge

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The PIP is a mechanism in which a BOX Options Participant submits an agency order on behalf of a customer for price improvement, paired with a contra-order guaranteeing execution of the agency order at or better than the National Best Bid or Offer (''NBBO''). The contra-order could be for the account of the Options Participant, or an order solicited from someone else. The agency order is exposed for a one-second auction in which other BOX Options Participants may submit competing interest at the same price or better. The initiating BOX Options Participant is guaranteed 40% of the order (after public customers) at the final price for the PIP order, assuming it is at the best price. *See* Chapter V, Section 18 of the BOX Rules.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *See* Securities Exchange Act Release No. 64981 (July 28, 2011) 76 FR 46858 (''Notice'').

[6] Sections 1 through 3 of the Box Fee Schedule include a $0.25 per contract transaction fee for contracts traded in the PIP. Depending on its average daily volume (''ADV''), a Participant who initiates PIP auctions may be charged a lower per contract fee. *See* Section 7d. of the Box Fee Schedule. *See also infra* note 9.

[7] 15 U.S.C. 78s(b)(3)(C).

[8] 15 U.S.C. 78s(b)(1).

both the PIP Initiator and the PIP Responder the same fee for executing an order in the PIP. However, if the PIP Initiator also submits the agency order into the PIP, the PIP Initiator receives the rebate paid to the agency order that is auctioned in the PIP. As a result, if the fee the PIP Initiator pays is aggregated with the rebate the PIP Initiator receives for the agency order (*i.e.,* a ''net'' fee), the PIP Initiator would pay a lower net fee compared to PIP Responders. For example, under the proposal, a PIP Initiator that executes 100% of the PIP Order in a Non-Penny class would be charged a $0.10 per contract base transaction fee (at the highest volume tier) [9] plus a liquidity provider fee of $0.75 per contract, and would receive a credit for removing liquidity of $0.75 for the agency order. This results in a net fee of $0.10 per contract to a PIP Initiator who executes 100% of its customer's order. In contrast, a PIP Responder in a Non-Penny class would be charged a $0.25 per contract base transaction fee plus the liquidity provider fee of $0.75 per contract, for a net fee of $1.00 per contract. Comparing the net fees charged to PIP Initiators to those charged to PIP Responders, the largest potential disparity is $0.90 per contract.

In its filing, the Exchange notes its belief that the changes to the PIP transaction fees and credits are ''competitive, fair and reasonable, and non-discriminatory in that they apply to all categories of participants and across all account types.'' [10] The Exchange further argues that the proposed fee change is reasonable because it ''is fair and reasonable as applied only to the specified classes and transactions because such options trade at minimum increments of $0.05 or $0.10, providing greater opportunity for market participants to offer additional price improvement.'' [11] In addition, the Exchange noted that it believes the proposed ''credit will attract additional order flow to BOX and to the PIP in particular, to the benefit of all market participants.'' [12] The Exchange also stated that the proposal ''will allow the fees charged on BOX to remain competitive with other exchanges as well as apply such fees in a manner which is equitable among all BOX Participants.'' [13]

To date, the Commission has received four comment letters on the Exchange's proposed rule change.[14] Three commenters recommend that the Commission temporarily suspend SR–BX–2011–046 and institute proceedings to disapprove the filing.[15] The fourth commenter supports the Exchange's proposed rule change and urges the Commission not to institute proceedings to disapprove the filing.[16] The Commission also has received a letter from the Exchange responding to the comments received.[17]

Citadel argues that the magnitude of the disparity between the fees an initiator pays and the fees a competitive responder pays, on a net basis, make it ''economically prohibitive for anyone other than the initiator to respond'' to a PIP auction. Citadel also provides statistics suggesting that increases to the BOX PIP fees [18] are ''reducing price improvement opportunities for customers and turning the PIP and BOX into an NBBO internalization engine.'' [19] Based on its analysis, Citadel argues that the fees proposed by SR–BX–2011–046 are ''solely structured to benefit one group of BOX participants over another,'' and thus are discriminatory and an undue burden one competition.[20]

IMC also notes its belief that the BOX PIP fee structure unduly burdens competition and unreasonably discriminates amongst participants.[21] It argues that the increase in fees is borne solely by PIP competitive responders and ''will deter anyone other than the initiator from providing liquidity via the PIP.'' [22] IMC believes that ''the BOX has thus erected an unreasonable barrier to participation, effectively barring certain participants from competing with PIP initiators.'' [23] IMC believes that BOX's fee structure is designed to reduce competition and increase internalization in the PIP, which in turn results in ''reduced opportunities for meaningful price improvement.'' [24]

ISE challenges BOX's assertion that the fees proposed in SR–BX–2011–046 have a uniform application across all members, noting that the differential fees between PIP Initiators and competitive responders is between $0.75 and $0.90 per contract.[25] ISE also argues that SR–BX–2011–046 is deficient in that it fails to: provide an adequate basis to determine that the proposed rule change is consistent with the Act because it does not address the pricing differential for participants who seek to compete with a PIP Initiator, discuss the burden on competition imposed by the pricing structure, or provide support for its assertion that the fee change will allow it to compete with other exchanges.[26]

TD Ameritrade applauds the proposed rule change, noting that it has already seen significant benefits to its retail investors.[27] TD Ameritrade notes that its clients received over $600,000 in price improvement over the NBBO on BOX in August 2011 and believes that its customer experience on the BOX strongly indicates that healthy and robust competition exists within the PIP.[28] TD Ameritrade states that the BOX fee structure provides incentives for market participants to submit customer order flow to BOX and thus, continues to create a greater opportunity for retail customers to receive additional price improvement.[29]

In its response letter, BOX argues that its market model and fee structure are intended to benefit retail customers.[30] BOX responds to the assertions that the fee structure is discriminatory and

[9] *See* Section 7d. of the BOX Fee Schedule. Section 7d. includes a tiered fee schedule that is assessed on PIP Initiators based on each PIP Initiator ADV for executions in the PIP. This charge ranges from $0.10 per contract for a PIP Initiator with an ADV of 150,001 or greater contracts to $0.25 per contract for a PIP Initiator with an ADV of less than 20,001 contracts.

[10] *See* Notice, *supra* note 5, at 46858.

[11] *See id.* at 46859.

[12] *See id.*

[13] *See id.*

[14] *See* letters to Elizabeth Murphy, Secretary, Commission, from John C. Nagel, Managing Director and General Counsel, Citadel Securities LLC (''Citadel''), dated August 12, 2011 (''Citadel Letter''); Andrew Stevens, Legal Counsel, IMC Financial Markets (''IMC''), dated August 15, 2011 (''IMC Letter''); Michael J. Simon, Secretary, International Securities Exchange (''ISE''), dated August 22, 2011 (''ISE Letter''), and Christopher Nagy, Managing Director Order Strategy, TD Ameritrade, Inc. (''TD Ameritrade''), dated September 12, 2011 (''TD Ameritrade Letter'').

[15] *See* Citadel Letter, *supra* note 14, at 4; IMC Letter, *supra* note 14, at 4; and ISE Letter, *supra* note 14, at 5.

[16] *See* TD Ameritrade Letter, *supra* note 14, at 2.

[17] *See* letter to Elizabeth Murphy, Secretary, Commission, from Anthony D. McCormick, Chief Executive Officer, Boston Options Exchange, dated September 9, 2011 (''BOX Letter'').

[18] *See* Securities Exchange Act Release Nos. 62632 (August 3, 2010), 75 FR 47869 (August 9, 2010) (SR–BX–2010–049) (instituting the PIP pricing structure) and 64198 (April 6, 2011), 76 FR 20426 (April 12, 2011) (SR–BX–2011–020) (increasing the fee and credit).

[19] *See* Citadel Letter, *supra* note 14, at 3. Citadel's statistics show that, since February 2011, the average price improvement per contract and average percentage of contracts price improved in PIP auctions has declined every month. *See id.* at 3.

[20] *Id.*

[21] *See* IMC Letter, *supra* note 14, at 1–2.

[22] *See* IMC Letter, *supra* note 14, at 2.

[23] *See id.*

[24] *See* IMC Letter, *supra* note 14, at 3.

[25] *See* ISE Letter, *supra* note 14, at 1.

[26] *See* ISE Letter, *supra* note 14, at 5.

[27] *See* TD Ameritrade Letter, *supra* note 14, at 1.

[28] *See id.*

[29] *See id.* TD Ameritrade suggests that the Commission should recognize that price improvement opportunities in the options markets are not transparent and easy to compare from exchange to exchange and notes its belief that there should be more order execution information transparency in the options markets. *See* TD Ameritrade Letter, *supra* note 14, at 2.

[30] *See* BOX Letter, *supra* note 17, at 2.

impedes competition by providing PIP statistics showing that the retention rate (the amount of an agency order allocated to a PIP Initiator) in nickel classes in July 2011was approximately 38%.[31] BOX notes that this retention rate is lower than the 40% guarantee permitted to be allocated to an initiating participant and states that this statistic indicates ''definitive competition within the PIP.''[32] It also notes that average price improvement per contract in PIP transactions increased from $0.0062 in July 2011 to $0.0087 in August 2011, in part as a result of the proposed rule change.[33] BOX responds to the assertion that Initiating Participant can offset any fee with a credit by stating that ''most PIP transactions are initiated by a market maker acting independently of a Participant acting as agent for a customer order.''[34] Further BOX states that its fee structure in the PIP is more transparent than payment for order flow (''PFOF'') arrangements and notes its belief that the credit to remove liquidity on BOX is generally less than what firms receive through PFOF.[35] BOX states that since the PIP began operating in 2004, customers have received more than $355 million in savings through better executions on BOX, including $7.3 million in August 2011, and states its belief that the proposal is consistent with the public interest, and with the Exchange Act.[36]

The Commission intends to assess whether the potential resulting fee disparity between PIP Initiators and PIP Responders (as high as $0.90 per contract) is consistent with the statutory requirements applicable to a national securities exchange under the Act, as described below. In particular, the Commission will assess whether the proposal satisfies the standards under the Exchange Act and the rules thereunder requiring, among other things, that exchange rules: provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule change.

IV. Proceedings To Determine Whether To Approve or Disapprove SR–BX–2011–046

The Commission is instituting proceedings pursuant to Sections 19(b)(3)(C)[37] and 19(b)(2) of the Act[38] to determine whether the Exchange's proposed rule change should be approved or disapproved. Pursuant to Section 19(b)(2)(B) of the Act,[39] the Commission is providing notice of the grounds for disapproval under consideration. As discussed above, under the proposal, the PIP Initiator could pay a lower net fee compared to PIP Responders. The Exchange Act and the rules thereunder require that exchange rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; that exchange rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and that exchange rules do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Commission intends to assess whether BOX's proposal is consistent with these and other Exchange Act standards.

The Commission believes it is appropriate in the public interest to institute disapproval proceedings at this time in view of the significant legal and policy issues raised by the proposal. Institution of disapproval proceedings does not indicate, however, that the Commission has reached any conclusions with respect to the issues involved. The sections of the Act and the rules thereunder that are applicable to the proposed rule change include:

- Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities,''[40]
- Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers,''[41] and
- Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Exchange Act].''[42]

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by November 3, 2011. Rebuttal comments should be submitted by November 18, 2011. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[43]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. For example, the Commission seeks comment and specific data on the following:

- Whether, as stated by commenters, the fee structure in the PIP and this proposed fee change, in particular, have impacted or will impact incentives to compete in the PIP and, if so, how specifically have or will the fee structure in the PIP and this proposed fee change impacted incentives to compete;
- Whether the proposed fee change will affect the quality of execution of customer orders in the PIP or the broader market quality, such as quoted spreads or overall execution quality; and if so, how and what type of impact will this have;
- Whether the proposed fee change and PIP fee structure reduce the benefits

[31] *See* BOX Letter, *supra* note 17, at 1.

[32] *See id.*

[33] *See id.*

[34] BOX Letter, *supra* note 17, at 1.

[35] *See* BOX Letter, *supra* note 17, at 2.

[36] *See id.*

[37] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[38] 15 U.S.C. 78s(b)(2).

[39] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *Id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so findings. *Id.*

[40] 15 U.S.C. 78f(b)(4).

[41] 15 U.S.C. 78f(b)(5).

[42] 15 U.S.C. 78f(b)(8).

[43] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

of exposing an order[44] and thus potentially create a de facto internalization mechanism; and if so, whether, and if so, how, this will adversely impact overall market quality and customer execution quality and whether a de facto internalization mechanism should be of concern to the Commission;

- Whether the proposed fee change, by facilitating internalization of orders on BOX, could or would lead to a shift of order flow from other exchanges and, if so, what is the nature and volume of such order flow and what is the extent to which such order flow currently receives price improvement at the other exchanges or is executed at prices that merely match the NBBO;
- Whether BOX's other fees, specifically the fee to add liquidity to the BOX book,[45] have an impact on the application or effects of this proposed fee change, and if so, how and what the impact is or will be;
- Whether the filing for SR–BX–2011–046 was sufficient under Section 19(b) of the Act to address issues regarding the effects of the proposed fee change on competition in the PIP;
- Whether the PIP fees, either on a net basis or otherwise, are comparable to any fees or charges on other exchanges, including any PFOF fees and rebates, and, if so, how;
- Whether credits paid on the agency order that is submitted to the PIP auction on behalf of a customer are passed on to the customer or retained by the PIP Initiator and, if passed on, in what form; and
- Whether the Commission should evaluate all fees and all rebates (including PFOF fees and rebates) at all exchanges on a net or aggregate basis to assess their effects on competition or to otherwise assess their consistency with the Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change, 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–BX–2011–046 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–BX–2011–046. The file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2011–046 and should be submitted on or before November 3, 2011. Rebuttal comments should be submitted by November 18, 2011.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[46] that File No. SR–BX–2011–046, be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23909 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

[44] The Commission has recognized the benefits of exposure to the market, noting in the context of facilitation mechanisms that an ''auction [in which an order is exposed to the market] provides some assurance that the customer's order is executed at the best price any member in that market is willing to offer.'' Competitive Developments in the Options Markets, Securities Exchange Act Release No. 49175, 69 FR 6124 (February 9, 2004), at 6130. The Commission also noted that ''[r]ules or practices that permit or encourage internalization may also reduce intramarket price competition and, therefore, cause spreads to widen.'' *Id.*

[45] As of September 1, 2011, BOX charges a $0.65 fee for adding liquidity in the Non-Penny classes and a $0.22 fee for adding liquidity in the Penny Pilot classes. *See* Section 7a. of the BOX Fee Schedule, available at *http://www.bostonoptions.com/pdf/BOX_Fee_Schedule.pdf.*

[46] 15 U.S.C. 78s(b)(3)(C).

[47] 17 CFR 200.30–3(a)(57) and (58).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65327; File No. SR–ISE–2011–48]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Fee Credits

September 13, 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 August 30, 2011, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend certain fees related to orders subject to intermarket linkage and to change the treatment of customer orders subject to intermarket linkage in its Select Symbols. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), on the Commission's Web site at *http://www.sec.gov,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently assesses a per contract transaction charge to members of the Exchange (''Exchange Members'') that add or remove liquidity from the Exchange (''maker/taker fees'') in certain options classes (the ''Select Symbols'').[3]

Pursuant to Commission approval, both Priority Customer[4] and Professional Customer[5] orders on the ISE that are not executable on the Exchange are exposed or ''flashed'' to Exchange Members before they are sent through the intermarket linkage system to another exchange for execution because that exchange is displaying a better price.[6] Since the inception of maker/taker fees on the Exchange, Priority Customer orders in the Select Symbols that are ''flashed'' and subject to linkage handling have been treated as ''makers'' of liquidity. Since Priority Customer orders in the Select Symbols ''make'' liquidity, regardless of size, such orders are traded on the Exchange for free.[7] Professional Customer orders in the Select Symbols that are ''flashed'' and subject to linkage handling are currently charged a maker fee of $0.10 per contract. The Exchange, however, believes that these orders are, in fact, takers of liquidity. These orders are ''flashed'' to Exchange Members precisely because when they are sent to ISE, they are marketable at another exchange and would ''take'' liquidity from that other exchange. By definition, ''flash'' orders are not resting orders; instead, they are ''flashed'' for matching at the national best bid or offer and potential routing through intermarket linkage. Therefore, the Exchange believes it is appropriate to treat such orders as ''taking'' liquidity. And as takers of liquidity, the Exchange proposes to charge these orders the Exchange's standard taker fee for Select Symbols, which for Priority Customer orders and Professional Customer orders is currently $0.12 per contract and $0.28 per contract, respectively.

Additionally, the Exchange currently provides a $0.10 per contract fee credit for executions resulting from responses to Customer (Professional)[8] orders that are ''flashed'' by the Exchange to its Members. The Exchange now proposes to extend the $0.10 per contract fee credit for executions resulting from responses to Priority Customer orders in the Select Symbols that are ''flashed'' by the Exchange to its Members. For Priority Customer orders that are preferenced to an ISE Market Maker that are subsequently executed in the Exchange's ''flash'' mechanism, the Exchange proposes to adopt a fee credit of $0.12 per contract for the preferenced Market Maker. At least one other exchange currently provides a rebate to a particular segment of its membership for responding to that exchange's ''flash'' auction. For example, the Chicago Board Options Exchange, Inc. (''CBOE'') currently provides a $0.15 per contract rebate but does so only to its market makers and only if those market makers satisfy a quoting requirement.[9] ISE's proposed rebate, on the other hand, is not limited to market makers only and does not have any requirements that must be met in order for an Exchange Member to receive the rebate. So long as the Exchange Member responds to a Priority Customer order and executes it, that Exchange Member will receive the proposed rebate.

The proposed rule change is applicable only for executions in the Select Symbols.

2. Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Exchange Act[10] (the ''Act'') in general, and furthers the objectives of Section 6(b)(4) of the Act[11] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and other persons using its facilities. The impact of the proposal upon the net fees paid by a particular Exchange Member will depend on a number of variables, most important of which will be its propensity to add or remove liquidity in options overlying the Select Symbols.

The Exchange believes that the proposed fees it charges for options overlying the Select Symbols remain competitive with fees charged by other exchanges and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than to a competing exchange. The Exchange believes that treating Priority Customer orders and Professional Customer orders in the Select Symbols that are ''flashed'' as takers of liquidity (as opposed to makers of liquidity which is how these orders were previously treated), as well as providing a rebate to responses to Priority Customer orders (in addition to the responses to Professional Customer orders, which is in place today) furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to make the Exchange's fee structure for ''flashed'' orders more consistent with its overall maker/taker fee structure, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange believes that its proposal to adopt $0.12 per contract taker fee for flashed Priority Customer orders and a $0.28 per contract taker fee for flashed Professional Customer orders in the Select Symbols is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and other persons using its facilities because such fees are within the range of fees assessed by the Exchange and other exchanges employing maker/taker pricing schemes. The Exchange believes that its proposal to adopt $0.10 per contract rebate for responses to flashed

[3] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees. *See* Securities Exchange Act Release Nos. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25), 62048 (May 6, 2010), 75 FR 26830 (May 12, 2010) (SR–ISE–2010–43), 62282 (June 11, 2010), 75 FR 34499 (June 17, 2010) (SR–ISE–2010–54), 62319 (June 17, 2010), 75 FR 36134 (June 24, 2010) (SR–ISE–2010–57), 62508 (July 15, 2010), 75 FR 42809 (July 22, 2010) (SR–ISE–2010–65), 62507 (July 15, 2010), 75 FR 42802 (July 22, 2010) (SR–ISE–2010–68), 62665 (August 9, 2010), 75 FR 50015 (August 16, 2010) (SR–ISE–2010–82), 62805 (August 31, 2010), 75 FR 54682 (September 8, 2010) (SR–ISE–2010–90), 63283 (November 9, 2010), 75 FR 70059 (November 16, 2010) (SR–ISE–2010–106), 63534 (December 13, 2010), 75 FR 79433 (December 20, 2010) (SR–ISE–2010–114); 63664 (January 6, 2011), 76 FR 2170 (January 12, 2011) (SR–ISE–2010–120); and 64303 (April 15, 2011), 76 FR 22425 (April 21, 2011) (SR–ISE–2011–18).

[4] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[5] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[6] *See* Securities Exchange Act Release No. 57812 (May 12, 2008), 73 FR 28846 (May 19, 2008) (SR–ISE–2008–28).

[7] In fact, while a number of other exchanges charge a ''route-out'' fee for orders that are subject to intermarket linkage, ISE does not charge such a fee.

[8] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[9] *See* CBOE Fees Schedule, Section 19, Hybrid Agency Liaison (''HAL'') Step-Up Rebate, at *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

Priority Customer orders in the Select Symbols is an equitable allocation of reasonable dues, fees and other charges among Exchange Members and other persons using its facilities because such rebate amount is the same as the rebate amount that is currently in place for responses to flashed Professional Customer orders in the Select Symbols. The Exchange also believes that its proposal is reasonable because it will allow the Exchange to remain competitive with other exchanges that employ a similar pricing scheme.

The Exchange further believes that adopting a fee credit for executions resulting from responses to Priority Customer orders is reasonable and equitable because doing so will incentivize Exchange Members to execute Priority Customer orders on the Exchange by trading against these orders at the National Best Bid or Offer (NBBO), while continuing to charge a competitively low fee for taking liquidity. Further, the Exchange believes that the proposed fee credit is not unfairly discriminatory because the credit would be applied uniformly to all responses to Priority Customer orders executed in the Exchange's ''flash'' mechanism, except for preferenced Market Makers which receive a slightly higher credit because of the preferenced Market Makers' role in directing such order to it at the Exchange.

The Exchange believes that adopting a higher fee credit for Priority Customer orders that are preferenced to an ISE Market Maker is reasonable and equitable because doing so will provide preferenced Market Makers with an added incentive to bring order-flow to the Exchange. Preferenced Market Makers have an influence on the order routing decisions of order flow providers with whom they have a relationship. Accordingly, when such orders are intentionally directed to the preferenced Market Maker at the Exchange, it is appropriate for the preferenced Market Maker to receive a higher rebate than an order that was not intentionally directed to the Exchange.

To the extent that the purposes of the proposal are achieved, the Exchange's Members should benefit from the improved market liquidity and the greater number of Priority Customer and Professional Customer orders which trade at the Exchange rather than be linked away to another market. Further, the Exchange believes that the proposed fee credit is not unfairly discriminatory because the credit would be applied uniformly to all responses to Priority Customer orders executed in the Exchange's ''flash'' mechanism, except for preferenced Market Makers which receive a slightly higher credit because of the preferenced Market Makers' role in intentionally directing order flow to the Exchange.

Moreover, the Exchange believes that the proposed fees are fair, equitable and not unfairly discriminatory because the proposed fees are consistent with price differentiation that exists today at other option exchanges having maker/taker pricing. Additionally, the Exchange believes it remains an attractive venue for market participants to trade Priority Customer and Professional Customer orders despite its proposed fee change as its fees remain competitive with those charged by other exchanges for similar pricing strategies. The Exchange operates in a highly competitive market in which Exchange Members can readily, and do, direct order flow to competing exchanges if they deem fee levels at a particular exchange to be excessive. The Exchange believes that the proposed fees and rebates it assesses must be competitive with fees and rebates assessed on other options exchanges. The Exchange believes that this competitive marketplace impacts the fees present on the Exchange today and influences the proposals set forth above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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.[12] At any time within 60 days of the filing of such 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.

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

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 No. SR–ISE–2011–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2011–48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2011–48 and should be submitted on or before October 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23908 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65326; File No. SR–CME–2011–06]

Self-Regulatory Organizations; Chicago Mercantile Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Additional Series and Maturities to Credit Default Index Swaps Available for Clearing

September 12, 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 September 2, 2011, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which items have been prepared primarily by CME. CME filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(4)(i)[4] thereunder.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

* * * * *

Chicago Mercantile Exchange Inc. Rulebook

Rule 100–80203—No Change.

* * * * *

CME Chapter 802 Rules: Appendix 1

Appendix 1

CDX INDICES

CDX index	Series	Termination date (scheduled termination)
CDX North America Investment Grade (CDX.NA.IG)	*10*	*20 Jun 2013, 20 Jun 2015, 20 Jun 2018.*
CDX North America Investment Grade (CDX.NA.IG)	*11*	*20 Dec 2011, 20 Dec 2013, 20 Dec 2015, 20 Dec 2018.*
CDX North America Investment Grade (CDX.NA.IG)	12	*20 Jun 2012,* 20 Jun 2014, *20 Jun 2016, 20 Jun 2019.*
CDX North America Investment Grade (CDX.NA.IG)	13	*20 Dec 2012,* 20 Dec 2014, *20 Dec 2016, 20 Dec 2019.*
CDX North America Investment Grade (CDX.NA.IG)	14	*20 Jun 2013*, 20 Jun 2015, *20 Jun 2017, 20 Jun 2020.*
CDX North America Investment Grade (CDX.NA.IG)	15	*20 Dec 2013*, 20 Dec 2015, *20 Dec 2017, 20 Dec 2020.*
CDX North America Investment Grade (CDX.NA.IG)	16	*20 Jun 2014,* 20 Jun 2016, *20 Jun 2018, 20 Jun 2021.*
CDX North America Investment Grade (CDX.NA.IG)	*17*	*20 Dec 2014, 20 Dec 2016, 20 Dec 2018, 20 Dec 2021.*

* * * * *

Rule 80301–End—No change

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

CME offers clearing services for certain credit default swap index products. Currently, CME offers clearing for Markit CDX North American Investment Grade Index Series 12, 13, 14, 15 and 16, 5 year maturities. The proposed rule changes that are the subject of this filing are intended to expand CME's Markit Investment Grade Index product offering by incorporating additional series and maturities for the existing products. More specifically, the proposed rule changes would:

- Add the Markit CDX North American Investment Grade Index Series 10, with 5, 7, and 10 year maturities.
- Add the Markit CDX North American Investment Grade Index Series 11, with 3, 5, 7, and 10 year maturities;
- Expand the maturities of the Markit CDX North American Investment Grade Index Series 12–16 to include the 3, 7 and 10 year maturities.
- Add the Markit CDX North American Investment Grade Index Series 17, with 3, 5, 7 and 10 year maturities.

The proposed rule changes that are the subject of this filing will become immediately effective. CME notes that it has also certified the proposed rule changes that are the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC''). The text of the CME proposed rule amendments is in Section I of this notice, with additions italicized and deletions in brackets.

The proposed CME rule amendments merely incorporate additional series and maturities to CME's existing offering of broad-based Markit Investment Grade Index credit default swaps. As such, the proposed amendments simply effect changes to an existing service of a registered clearing agency that (1) do not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (2) do not significantly affect the respective rights or obligations of the clearing agency or persons using its clearing agency services. Therefore, the proposed rule change is therefore properly filed under Section 19(b)(3)(A) and Rule 19b-4(f)(4)(i) thereunder.

[13] 17 CFR 200.30–3(a)(12).

[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)(4)(i).

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(4)(i) of Rule 19b–4 and became effective on filing. At any time within sixty days of the filing of such 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 may be submitted by using 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 No. SR–CME–2011–06 on the subject line.
- Paper comments should be sent 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–CME–2011–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of CME. 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–CME–2011–06 and should be submitted on or before October 11, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[5]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23866 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65337; File No. SR–BX–2011–064]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the BOX Fee Schedule

September 14, 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 September 1, 2011, NASDAQ OMX BX, Inc. (the ''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 self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) 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 from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ OMX BX, Inc. (the ''Exchange'') proposes to amend the Fee Schedule of the Boston Options Exchange Group, LLC (''BOX''). The changes to the BOX Fee Schedule pursuant to this proposal will be effective upon filing and operative on September 1, 2011. The text of the proposed changes is attached as Exhibit 5. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement a routing fee structure that provides a discount to BOX Options Participants (''Participants'') that execute transactions on BOX.

Public Customer Orders on BOX which are not executable against the BOX Book are routed to an away exchange for execution. Currently, BOX does not assess any fee to Participants for doing so. The Exchange, however, believes that exempting all outbound customer orders from routing fees will result in some Participants sending a substantial and increasing amount of non-executable orders to BOX so as to evade fees on other exchanges. In order to curtail this abusive use of BOX routing, the Exchange proposes to impose a routing fee structure that provides a volume discount to Participants that execute transactions on BOX. The proposed change will have no

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

effect on the billing of orders of non-Participants, including any orders routed to BOX from away exchanges.

The Exchange proposes to continue to route up to 200,000 contracts per month of Participant customer orders to an away exchange without imposing any fee. For each contract thereafter, BOX will assess a fee based on each Participant's total monthly volume of contracts executed on BOX. Participants that execute less than 300,000 contracts on BOX per month will pay a routing fee of $0.50 per contract. BOX Participants that execute 300,000 or more contracts on BOX per month will pay a routing fee of $0.01 per contract.

Instructing BOX to route orders away if they are non-executable on BOX is voluntary for BOX Participants. Participants may choose not to route their customer orders to another exchange. Participants may also avoid paying the proposed routing fee by choosing to designate their orders as Fill and Kill (''FAK''). FAK orders are not eligible for routing to away exchanges. FAK orders are executed on BOX, if possible, and then cancelled. Imposing a routing fee structure that provides a volume discount to Participants for trading on BOX will allow BOX to recoup a portion of its costs incurred in providing routing services and provide an incentive to Participants to trade on BOX to benefit from the potential discount on routing fees.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[5] in general, and Section 6(b)(4) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes the changes proposed are an equitable allocation of reasonable fees and charges among BOX Options Participants.

The Exchange believes that assessing a fee to Participants for routing orders to other market venues is reasonable, equitable, and non-discriminatory in that the fee will allow BOX to recoup a portion of its transactions costs attendant with offering routing services. BOX uses third-party broker-dealers to route orders to other exchanges and incurs charges for each order routed to an away market, in addition to the fees charged by other exchanges. BOX has been providing its routing services to Participants at no cost and has been able to cover such costs with revenue generated from transactions on BOX. In order to better recover costs for routing orders, the Exchange is proposing a routing fee structure to provide a discounted fee for Participants that trade a certain amount of volume on BOX.

The Exchange believes the proposed volume discount being provided to Participants that execute orders on BOX is equitable and not unfairly discriminatory because they are open to all Participants on an equal basis. The Exchange believes it is equitable to provide Participants that trade on BOX a discount on fees for routing customer orders that may not be executed on BOX because transactions executed on BOX increase BOX market activity and market quality. Greater liquidity and additional volume executed on BOX aids the price and volume discovery process. The Exchange believes it is reasonable and equitable to provide incentives to Participants to trade on BOX. Participant trading on BOX also results in revenue that BOX is able to use to provide routing services at a discounted cost to Participants. Accordingly, the Exchange believes that the proposal is not unfairly discriminatory because it promotes enhancing BOX market quality. The changes proposed by this filing are intended to provide an incentive to BOX Participants to submit orders for execution on BOX and not engage in abusive and predatory practices to evade fees on other exchanges.

Finally, the Exchange notes that although routing is available to BOX Participants for customer orders, Participants are not required to use the routing services, but instead, BOX routing services are completely optional. As discussed above, BOX Participants can manage their own routing to different options exchanges or can utilize a myriad of other routing solutions that are available to market participants.

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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[7] and Rule 19b–4(f)(2) thereunder,[8] because it establishes or changes a due, fee, or other charge applicable only to a member.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BX–2011–064 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–BX–2011–064. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

printing in the Commission's Public Reference Room, 100 F Street, NW., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov.* 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–BX–2011–064 and should be submitted on or before October 11, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–23975 Filed 9–16–11; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65224; File No. SR–CBOE–2011–081]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Compliance Deadline for Qualification Pursuant to Rule 3.6A

August 30, 2011.

Correction

In notice document 2011–22774 appearing on pages 55447–55449 in the issue of September 7, 2011, make the following correction:

On page 55447, in the first column, the Release No. and File No., which were inadvertently omitted from the document heading, are added to read as set forth above.

[FR Doc. C1–2011–22774 Filed 9–16–11; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF STATE

[Public Notice: 7588]

30-Day Notice of Proposed Information Collection: DS–7001 and DS–7005, DOS-Sponsored Academic Exchange Program Application, OMB Control Number 1405–0138

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* DOS-Sponsored Academic Exchange Program Application.
- *OMB Control Number:* 1405–0138.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, ECA/A/E/EUR.
- *Form Number:* DS–7001, DS–7005.
- *Respondents:* Applicants for the Academic Exchange Program.
- *Estimated Number of Respondents:* 7160 (For DS–7001, 3842 estimated; for DS–7005, 3318 estimated).
- *Estimated Number of Responses:* 7160 (For DS–7001, 3842 estimated; for DS–7005, 3318 estimated).
- *Average Hours per Response:* 0.75.
- *Total Estimated Burden:* 5370 hours.
- *Frequency:* Annually.

Obligation to Respond: Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from September 19, 2011.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *E-mail: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Micaela S. Iovine, U.S. Department of State, Bureau of Educational and Cultural Affairs, Floor 4, 2200 C St., NW., Washington, DC 20522–0504, who may be reached on 202–632–3256 or at *iovinems@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform 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.

Abstract of Proposed Collection

The Department of State collects this information to identify qualified candidates from Eurasia and South Central Asia for exchange activities sponsored by the Office of Academic Exchange Programs.

Methodology

Applications are delivered physically to the foreign country offices of the grantee organization, submitted electronically, or through the mail.

Additional Information: None.

Dated: September 1, 2011.

Marianne Craven,

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

[FR Doc. 2011–23888 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7590]

Culturally Significant Objects Imported for Exhibition Determinations: ''Sanja Iveković: Sweet Violence''

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 ''Sanja Iveković: Sweet Violence,'' 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 Museum of

Modern Art, New York, New York, from on or about December 18, 2011, until on or about March 26, 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 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: September 12, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–23999 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7590]

Culturally Significant Objects Imported for Exhibition Determinations: ''Sanja Iveković: Sweet Violence''

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 ''Sanja Iveković: Sweet Violence,'' 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 Museum of Modern Art, New York, New York, from on or about December 18, 2011, until on or about March 26, 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 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: September 12, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–23997 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7589]

Culturally Significant Object Imported for Exhibition Determinations: ''Cervera Bible''

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 object to be included in the exhibition ''Cervera Bible,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Metropolitan Museum of Art, New York, New York, from on or about November 22, 2011, until on or about January 16, 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 description of the exhibit object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: September 12, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–23996 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7591]

Culturally Significant Objects Imported for Exhibition Determinations: ''Rembrandt and Degas: Two Young Artists''

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 ''Rembrandt and Degas: Two Young Artists,'' 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 Sterling and Francine Clark Art Institute, Williamstown, Massachusetts, from on or about November 12, 2011, until on or about February 5, 2012, the Metropolitan Museum of Art, New York, New York, from on or about February 22, 2012, until on or about May 20, 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 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: September 12, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–24004 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7592]

Culturally Significant Objects Imported for Exhibition Determinations: ''Maharaja: The Splendor of India's Royal Courts''

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 ''Maharaja: The Splendor of India's Royal Courts,'' 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 Asian Art Museum, San Francisco, CA, from on or about October 21, 2011, until on or about April 8, 2012; the Virginia Museum of Fine Arts, Richmond, VA, from on or about May 19, 2012, until on or about August 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: September 12, 2011.

J. Adam Ereli,

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

[FR Doc. 2011–24002 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7594]

Designation of the Indian Mujahideen, Also Known as Indian Mujahedeen, Also Known as Indian Mujahidin, Also Known as Islamic Security Force–Indian Mujahideen (ISF–IM), as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to the Indian Mujahideen, also known as Indian Mujahedeen, also known as Indian Mujahidin, also known as Islamic Security Force–Indian Mujahideen (ISF–IM).

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: September 6, 2011.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2011–24027 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 7595]

Designation of The Indian Mujahideen, Also Known as Indian Mujahedeen, Also Known as Indian Mujahidin, Also Known as Islamic Security Force-Indian Mujahideen (ISF–IM), as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the organization known as the Indian Mujahideen, also known as Indian Mujahedeen, also known as Indian Mujahidin, also known as Islamic Security Force-Indian Mujahideen (ISF–IM), committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: September 6, 2011.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2011–23995 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–10–P

STATE DEPARTMENT

[Public Notice: 7550]

International Security Advisory Board (ISAB) Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on October 6, 2011, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public in the interest of national defense and foreign policy because the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, political-military affairs, and international security and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's ongoing studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, and diplomacy.

For more information, contact Richard W. Hartman II, Executive Director of the International Security Advisory Board,

Department of State, Washington, DC 20520, telephone: (202) 736–4290.

Dated: August 26, 2011.

Richard W. Hartman II,

Executive Director, International Security Advisory Board, U.S. Department of State.

[FR Doc. 2011–24036 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 7593]

Certification Related to Conditions Under Which Assistance Using FY 2011 Economic Support Funds (ESF) for the Reintegration of Former Members of Foreign Terrorist Organizations May Be Used

Pursuant to the authority vested in the Secretary of State under section 7046(b) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (Div. F, Pub. L. 111–117), as carried forward by the Full-Year Continuing Appropriations Act, 2011 (Div. B, Pub. L. 112–10), which incorporates by reference and amends, in part, section 7046(d) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (Div. H, Pub. L. 111–8) (FY 2009 SFOAA), I hereby determine and certify that the Government of Colombia is meeting the conditions described in section 7046(d)(2) of the FY 2009 SFOAA, and that I have consulted with Congress as consistent with section 7046(d)(1) of the FY 2009 SFOAA, as amended.

This Certification shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: September 6, 2011.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2011–24034 Filed 9–16–11; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventy-Third Meeting: RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 147 meeting: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment Agenda for the 73rd meeting.

DATES: The meeting will be held October 6, 2011, from 8:30 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1850 18th Street, NW., Suite 910, Washington, DC, 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 147, Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment Agenda for the 73rd meeting:

Agenda

October 6, 2011

- Open Plenary Session
- SC–147 and WG–75 Co-Chairmen's Opening Remarks
- Introductions
- Approval of Agenda and Summary from 72nd meeting of SC–147
- EUROCAE WG–75: Status of Current Events
- Compatibility of Airborne and Ground-based Safety Nets
- Automated TCAS Response Standards
- TCAS Program Office Activities
- Monitoring Efforts/TRAMS/TOPA
- Future CAS development efforts
- AVS and other FAA activities
- TSOs, etc.
- ASIAS/CAST/CAS Steering Committee
- Working Group Status Reports
- Requirement Working Group
- Detailed brief on RWG report on Recommendations for collision-avoidance system(s) that would be compatible with TCAS II, be more compatible with operations in congested airspace, and integrate ADS–B data effectively.
- Surveillance Working Group
- Proposed changes to both Hybrid and TCAS Surveillance and their associated projected reductions in transponder occupancy by TCAS
- Consideration of final proposed changes to SC 147 Terms of Reference
- Other Business
- Action Items
- Date, Time, and Place of Next meeting
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on September 8, 2011.

Robert L. Bostiga,

Manager, Agency Committee Management Office, Business Operations Group, AJP–92, NextGen & Operations Planning.

[FR Doc. 2011–23699 Filed 9–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held September 28, 2011 from 8:30 a.m. to 1:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Program Management Committee meeting. The agenda will include:

- Opening Plenary (Welcome And Introductions).
- Review/Approve Summaries.
- June 22, 2011, RTCA Paper No. 159–11/PMC–916.
- Publication Consideration/Approval.

- Final Draft, New Document, Final Draft, Revised DO–272B, *User Requirements for Aerodrome Mapping Information,* RTCA Paper No. 152–11/PMC–908, prepared by SC–217.
- Final Draft, Revised DO–291A, *Minimum Interchange Standards for Terrain, Obstacle, and Aerodrome Mapping Data,* RTCA Paper No. 153–11/PMC–909, prepared by SC–217.
- Final Draft, New Document, *Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures,* RTCA Paper No. 154–11/PMC–910, prepared by SC–221.
- Final Draft, Revised DO–178B, *Software Considerations in Airborne Systems and Equipment Certification,* RTCA Paper No. 155–11/PMC–911, prepared by SC–205.
- Final Draft, Revised DO–278, *Software Integrity Assurance Considerations for Communication, Navigation, Surveillance and Air Traffic Management (CNS/ATM) Systems,* RTCA Paper No. 156–11/PMC–912, prepared by SC–205.
- Final Draft, New Document, *Software Tool Qualification Considerations,* RTCA Paper No. 157–11/PMC–913, prepared by SC–205.
- Final Draft, New Document, *Formal Methods Supplement to DO–178 and DO–278,* RTCA Paper No. 158–11/PMC–914, prepared by SC–205.
- Integration and Coordination Committee (ICC)—Report.
- MASPS, SPR Guidance—Update.
- MOPS Drafting Guide—Recommendations for Review/Approval.
- Action Item Review.
- SC–222—Inmarsat AMS(R)S—Discussion—Review/Approve Revised Terms of Reference.
- PMC Ad Hoc—Special Committee Guidance Document—Discussion—
- SC–203—Unmanned Aircraft Systems—Discussion—Overview of MASPS Process.
- Discussion.
- Aircraft Audio Systems and Equipment—Discussion—Request for New Special Committee to Revise DO–214—*Audio Systems Characteristics and Minimum Operational Performance Standards for Aircraft Audio Systems and Equipment.*
- SC–206—Aeronautical Information Services (AIS) Data Link—Co-Chairman Review/Approval.
- NAC Update.
- FAA Actions Taken on Previously Published Documents.
- Special Committees—Chairmen's Reports.
- Other Business.
- Schedule for Committee Deliverables and Next Meeting Date.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on September 8, 2011.

Robert L. Bostiga,

Manager, Agency Committee Management Office, Business Operations Group, AJP–92, NextGen & Operations Planning.

[FR Doc. 2011–23696 Filed 9–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirteenth Meeting: RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services.

DATES: The meeting will be held September 26–30, 2011 from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at the Parc tertiaire Silic, 3 avenue Charles Lindburg, BP 20351, 94628 RUNGIS Cedex, Paris, France. Confirm attendance with Pascal Rohault at telephone number 01.79.61.40.00 or contact *pascal.rohault@thalesgroup.com.@eurocontrol.int.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a RTCA Special Committee 214: Working Group 78: Standards for Air Traffic Data Communication Services meeting. The agenda will include:

Additional Information

Additional information and all the documents to be considered can be found in the Web site *http://www.faa.gov/go/SC214.*

Meeting Objectives

1. Consider DO–224C Signal-in-Space Minimum Aviation System Performance Standards (MASPS) for Advanced VHF Digital Data Communications Including Compatibility with Digital Voice Techniques for approval (RTCA Only).
- Consider DO–281B/ED–92B Minimum Operational Performance Standards (MOPS) for Aircraft VDL Mode 2 Physical, Link and Network Layer for release for final review and comment.

Agenda

Monday, September 26, 2011

- 9:00–17:00 Sub group session.

Tuesday, September 27, 2011

- 9:00–17:00 Sub-Group Session.

Wednesday, September 28, 2011

- Plenary Session 9:00–12:30.
- Welcome/Introduction/Administrative Remarks.
- Approval of the Agenda.
- Discuss comments received during public review of DO–224C. Approve final changes.
- Decide on approval of DO–224C.
- Discuss comments received during plenary review of DO–281B/ED–92B. Approve final changes.
- Decide on release of DO–281B/ED–92B for final review and comment.
- Any Other Business.
- Adjourn.
- 13:30–17:00 Sub-Group Session.

Thursday, September 28, 2011

- 9:00–17:00 Plenary Session.

Friday, September 30, 2011

- 9:00–16:00 Sub-Group Sessions.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 8, 2011.

Robert L. Bostiga,

Manager, Agency Committee Management Office, Business Operations Group, AJP–92, NextGen & Operations Planning.

[FR Doc. 2011–23698 Filed 9–14–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In August 2011, there were 10 applications approved. This notice also includes information on three applications, approved in July 2011, inadvertently left off the July 2011 notice. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Luzerne and Lackawanna Counties, Avoca, Pennsylvania.

Application Number: 11–08–C–00–AVP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,611,599.

Earliest Charge Effective Date: August 1, 2018.

Estimated Charge Expiration Date: June 1, 2025.

Class of Air Carriers Not Required to Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Expand general aviation apron.
Acquire security equipment.
Acquire snow removal equipment.
Acquire aircraft rescue and firefighting vehicle.
Conduct miscellaneous study.
Install guidance signs.
Rehabilitate runway, phases I, II, and III.
Rehabilitate taxiway B, phases I and II.
Acquire snow removal equipment—snow blower.
Acquire aircraft rescue and firefighting vehicle.
Acquire snow removal equipment, phase II.
Construct taxiway to runway 10/28.
Design/construct air cargo/general aviation apron.
Design passenger terminal apron.
Construct aircraft rescue and firefighting building, phases I and II.
Rehabilitate runway 10/28.
Rehabilitate taxiway D (east) and northwest end of taxiway A.
Security enhancements.
Acquire snow removal equipment, phase I.
Improve runway safety area, runway 4, phases I and II.
Acquire snow removal equipment, phase II.
Upgrade and relocate airfield equipment and air traffic control tower center controls for new control tower.
Design and construct new south general aviation apron.
Remove obstructions.
Design and construct access road for general aviation area.
Design terminal expansion and in-line baggage screening system.
Design and construct taxiway B extension (runway 22 approach end).

Decision Date: July 21, 2011.

For Further Information Contact: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: County of Humboldt, Eureka, California.

Application Number: 11–10–C–00–ACV.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $1,851,818.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: August 1, 2016.

Classes of Air Carriers Not Required To Collect PFCs: (1) Nonscheduled/on-demand air carriers filing FAA From 1800–31; and (2) nonscheduled large certificated air carriers filing Department of Transportation Research and Special Programs Administration Form T–100.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Arcata Airport (ACV).

Brief Description of Projects Approved for Collection at ACV and USE at ACV:

PFC administration.
Runway 14/32 safety area improvements.
Runway 01/19 safety area grading enhancements.
Wildlife hazard assessment.
Bluff stabilization at runway 14 end—design.
Bluff stabilization at runway 14 end—construction.
Study removal of obstructions in runway approach.
Airfield lighting upgrade.
Handicapped passenger boarding equipment.

Brief Description of Projects Approved for Collection at ACV and Use at Dinsmore Airport (D63):

Study removal of obstructions in runway approach.
Removal of obstructions in runway approach.
Installation of windsock and segmented circle.

Brief Description of Projects Approved for Collection at ACV and Use at Garberville Airport (O16):

Study removal of obstructions in runway approach.
Design runway 18/36 rehabilitation.
Removal of obstructions in runway approach.
Runway 18/36 rehabilitation.
Rehabilitate and expand aircraft ramp.
Design runway 18/36 safety area drainage.

Brief Description of Projects Approved for Collection at ACV and Use at Kneeland Airport (O19):

Study removal of obstructions in runway approach.
Design fencing and gates.
Install fencing and gates.

Brief Description of Projects Approved for Collection at ACV and Use at Murray Field (EKA):

Design wildlife perimeter fencing.
Design automated weather observing system.
Design runway 12/30 rehabilitation.
Upgrade runway 12/30 lighting.
Runway 12/30 rehabilitation.
Design access road rehabilitation.

Brief Description of Projects Approved for Collection at ACV and Use at Rohnerville Airport (FOT):

Runway/taxiway rehabilitation, phase 1.
Runway/taxiway rehabilitation, phase 2.
Reconstruct aircraft ramp.

Brief Description of Projects Approved for Collection at ACV for Future Use at ACV:

Construct aircraft rescue and firefighting station.
Taxiways B and G drainage improvements.
Design a new access roadway.

Brief Description of Projects Approved for Collection at ACV for Future Use at D63:

Design west end storm drain improvements.
Construct west end storm drain improvements.
Design fencing and gates.
Construct fencing and gates.

Brief Description of Project Approved for Collection at ACV for Future Use at

O16: Construct runway 18/36 safety area drainage.

Brief Description of Project Approved for Collection at ACV for Future Use at O19: Construct erosion control/bluff stabilization.

Brief Description of Project Approved for Collection at ACV for Future Use at EKA: Access road rehabilitation.

Brief Description of Project Approved for Use at O16: Install automated weather observing system.

Brief Description of Project Approved for Use at O19: Design erosion control/stabilization.

Brief Description of Projects Approved for Use at EKA:

Install perimeter fencing and gates.
Install automated weather observing system.

Brief Description of Project Approved for Use at FOT: Install automated weather observing system.

Brief Description of Disapproved Project: Procure 1-inch jet pump for runway marking/striper installation.

Determination: Disapproved. This project does not meet the requirements of § 158.15(b) and, therefore, is not eligible for PFCs.

Decision Date: July 22, 2011.

For Further Information Contact: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: Pitt County—City of Greenville Airport Authority, Greenville, North Carolina.

Application Number: 11–04–C–00–PGV.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $9,589,497.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: October 1, 2038.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Pitt-Greenville Airport.

Brief Description of Projects Approved for Collection and Use:

North jetway loading bridges and ancillary equipment.
Stormwater pollution prevention plan and spill prevention control and countermeasure plan updates.
Terminal expansion construction professional services.
Terminal expansion passenger seating.
Rehabilitate deicing ramp (design and construction).
Air carrier apron expansion (design and construction).
Master plan/airport layout plan update.
Geographic information system mapping.
Apron lighting (design and construction).
PFC program development.
PFC program administration.

Brief Description of Projects Approved for Collection:

Land acquisition runway 20 approach, professional services.
Runway 2/20 runway safety area extension (design and construction).
Land acquisition, runway 20 extension (Lewis parcels).
Land acquisition, runway 20 runway safety area and runway extension.

Brief Description of Disapproved Project: Demolish former Army Reserve building.

Determination: Disapproved. This project does not meet the requirements of § 158.15(b) and, therefore, is not eligible for PFCs.

Decision Date: July 22, 2011.

For Further Information Contact: John Marshall, Atlanta Airports District Office, (404) 305–7153.

Public Agency: Virgin Islands Port Authority, St. Thomas, Virgin Islands.

Application Number: 11–05–C–00–STX.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,869,822.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: February 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection at Henry E. Rohlsen Airport and Use at Cyril E. King Airport: Terminal improvements.

Decision Date: August 11, 2011.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: Virgin Islands Port Authority, St. Thomas, Virgin Islands.

Application Number: 11–08–C–00–STT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $13,353,396.

Earliest Charge Effective Date: April 1, 2012.

Estimated Charge Expiration Date: October 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Partially Approved for Collection and Use: Terminal improvements.

Determination: Several project components were determined to serve both eligible and ineligible areas. Therefore, those components were partially approved.

Decision Date: August 11, 2011.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: Toledo-Lucas County Port Authority, Toledo, Ohio.

Application Number: 11–06–C–00–TOL.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $2,288,261.

PFC Level: $4.50.

Earliest Charge Effective Date: December 1, 2011.

Estimated Charge Expiration Date: June 1, 2018.

Class of Air Carriers Not Required To Collect PFCs: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Toledo Express Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of runway 16/34—construction.
Rehabilitate taxiway D shoulders—design and construction.
Rehabilitate runway 7/25—design.
Reconstruction/relocation of taxiway N—construction.
Rehabilitate runway 7/25—construction.
Rehabilitate taxiways B, A, and B–1—design.
Pavement condition update.
Acquire aircraft rescue and firefighting vehicle.
Acquire passenger loading bridge.

Decision Date: August 12, 2011.

For Further Information Contact: Mary Jagiello, Detroit Airports District Office, (734) 229–2956.

Public Agency: Oklahoma City Airport Trust, Oklahoma City, Oklahoma.

Application Number: 11–04–C–00–0KC.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $5,226,000.

PFC Level: $4.50.

Earliest Charge Effective Date: August 1, 2020.

Estimated Charge Expiration Date: March 1, 2021.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Will Rogers World Airport.

Brief Description of Projects Approved for Collection and Use:

Checked baggage inspection system.
PFC consulting services.

Decision Date: August 17, 2011.

For Further Information Contact: Lana Logan, Arkansas/Oklahoma Airports Development Office, (817) 222–5636.

Public Agency: Tweed—New Haven Airport Authority, New Haven Connecticut.

Application Number: 11–05–C–00–HVN.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $328,790.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: December 1, 2013.

Class of Air Carriers Not Required To Collect PFCs: Air taxi/commercial operators non-scheduled on-demand.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Tweed-New Haven Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 20 safety area improvements, (runway safety area phase II).
Taxiway B reconstruction and extension wetlands mitigation, (runway safety area phase III).
Relocate runway 2/20 localizer.
Part 150 noise study.
Runway 2/20 rehabilitation.
Acquire runway sweeper.
Security enhancements.
Continuous friction measuring equipment.

Brief Description of Disapproved Project: Airfield inspection and reporting.

Determination: Disapproved. This project does not meet the requirements of § 158.15(b) and, therefore, is not eligible for PFCs.

Decision Date: August 18, 2011.

For Further Information Contact: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: City of Waterloo, Iowa.

Application Number: 11–10–C–00–ALO.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $97,420.

PFC Level: $4.50.

Earliest Charge Effective Date: March 1, 2012.

Estimated Charge Expiration Date: June 1, 2013.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Design taxiways A, B, and E and ramp.
Taxiway E rehabilitation.
PFC annual audit and administration.

Decision Date: August 18, 2011.

For Further Information Contact: Jim Johnson, Central Region Airports Division, (816) 329–2600.

Public Agency: City of Lebanon, New Hampshire.

Application Number: 11–07–C–00–LEB.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $68,519.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: November 1, 2013.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Construct apron (wetland restoration).
Update master plan.
Boarding ramp, snow removal equipment, and enhanced taxiway markings.
Miscellaneous improvements (lighting).
Environmental mitigation.
Miscellaneous airport improvements (air traffic control tower controls).
Acquire snow removal equipment.
Environmental assessment—phase I.
Environmental assessment—phase II.
Wildlife hazard assessment.
Airport property study.
Environmental assessment—permitting.

Decision Date: August 18, 2011.

For Further Information Contact: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: Hall County Airport Authority, Grand Island, Nebraska.

Application Number: 11–03–C–00–GRI.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $932,944.

PFC Level: $4.50.

Earliest Charge Effective Date: November 1, 2013.

Estimated Charge Expiration Date: August 1, 2018.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate runway 17/35.
Rehabilitate apron, phase 1.
Rehabilitate runway 17/35, phase 1.
Rehabilitate taxiway, phase 1.
Security enhancements.
Install perimeter fencing.
Rehabilitate apron, phase 2.
Rehabilitate runway 17/35, phase 2.
Rehabilitate taxiway, phase 2.
Rehabilitate apron, phase 3.
Rehabilitate runway 17/35, phase 3.
Rehabilitate taxiway, phase 3.
Rehabilitate runway 17/35, phase 4.
Acquire aircraft rescue and firefighting vehicle.
Security enhancements.
Rehabilitate apron.
Update master plan study.
Acquire snow removal equipment.
Acquire snow removal equipment.
Rehabilitate taxiway, phase 1.
Rehabilitate taxiway, phase 2.
Wildlife hazard assessment.

Decision Date: August 23, 2011.

For Further Information Contact: Mark Schenkelberg, Central Region Airports Division, (816) 329–2645.

Public Agency: City of Kearney, Nebraska.

Application Number: 11–04–C–00–EAR.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $191,378.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: April 1, 2016.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

General aviation terminal apron, sealcoat.
Runway 13/31 markings and miscellaneous pavement repairs.
Mark surface painted hold position signs.
Environmental assessment.
Land acquisition for runway 3/31.
Airport rescue and firefighting station construction.
Aircraft rescue and firefighting truck.

Decision Date: August 23, 2011.

For Further Information Contact: Mark Schenkelberg, Central Region Airports Division, (816) 329–2645.

Public Agency: County and City of Spokane, Spokane, Washington.

Application Number: 11–09–C–00–GEG.

Application Type: Impose and use a PFC.

Total PFC Revenue Approved in This Decision: $10,215,000.

PFC Level: $4.50.

Earliest Charge Effective Date: October 1, 2012.

Estimated Charge Expiration Date: September 1, 2014.

Class of Air Carriers Not Required To Collect PFCs: None.

Brief Description of Projects Approved for Collection and Use:

Construct snow removal equipment building.

Snow removal equipment.

Glycol recovery equipment.

PFC application and administration fees.

Decision Date: August 23, 2011.

For Further Information Contact: Karen Miles, Seattle Airports District Office, (425) 227–2661.

AMENDMENTS TO PFC APPROVALS

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
07–13–C–02–BNA, Nashville, TN	07/21/11	$15,720,134	$15,605,263	04/01/11	04/01/11
09–03–C–01–PGV, Greenville, NC	07/22/11	753,324	596,985	08/01/12	10/01/11
02–01–C–01–WRL, Worland, WY	08/08/11	70,500	72,022	03/01/08	03/01/08
01–04–C–02–EUG, Eugene, OR	08/11/11	2,812,313	4,005,128	06/01/03	08/01/05
07–07–C–02–ALO, Waterloo, IA	08/23/11	363,977	299,977	03/01/11	12/01/10
10–09–C–01–ALO, Waterloo, IA	08/23/11	35,100	44,750	03/01/12	09/01/11
00–02–C–02–GRI, Grand Island, NE	08/23/11	545,219	553,865	11/01/13	08/01/11
94–01–I–02–CBE, Wiley, WV	08/23/11	150,000	144,345	06/01/06	06/01/06
97–02–U–01–CBE, Wiley, WV	08/23/11	NA	NA	06/01/06	06/01/06
08–09–C–01–ACV, Eureka, CA	08/26/11	926,450	956,975	08/01/11	08/01/11

Issued in Washington, DC, on September 7, 2011.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2011–23885 Filed 9–16–11; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before October 19, 2011.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC on September 09, 2011.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
New Special Permits				
15429–N		Demex International Inc. Picayune, MS.	49 CFR 176.144(e)	To authorize the ransportation in commerce of certain explosives by vessel in an alternative stowage configuration. (mode 3).
15440–N		Mountain Air Helicopters, Inc. Los Lunas, NM.	49 CFR 172.101, Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1).	To authorize the transportation in commerce of certain hazardous materials by cargo aircraft including by external load in remote areas of the US without being subject to hazard communication requirements and quantity limitations where no other means of transportation is available. (mode 4).

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
15443–N		Iliamna Air Guides, DBA Soloy Helicopters, LLC Wasilla, AK.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27(b)(2), 175.30(a)(1), 172.200, 172.300 and 172.400.	To authorize the transportation in commerce of certain Class 1 hazardous materials by cargo aircraft including by external load in remote areas of the US without being subject to hazard communication requirements and quantity limitations where no other means of transportation is available. (mode 3).
15446–N		Arkema, Inc. King of Prussia, PA.	49 CFR 172.427	To authorize the transportation in commerce of organic peroxides in packaging with labeling allowed prior to changes promulgated under HM–2151. (mode 1).
15451–N		NK CO., LTD Gangseo-Gu, Busan.	49 CFR 180.209(a) and (b)	To authorize the transportation in commerce of certain DOT 3AA, 3AAX and 3T cylinders in Multiple Element Gas Containers that have been retested every ten (10) years instead of every five (5) years by acoustic emission and ultrasonic examination (AE/UE) in place of the internal visual inspection and the hydrostatic retest required by § 180.205 (modes 1, 2, 3).
15452–N		BE Aerospace Lenexa, KS	49 CFR 173.302(f) (2)(i)	To authorize the transportation in commerce of certain DOT Specification 39 cylinders containing oxygen that have their pressure relief devices set to an alternative burst at pressure range. (modes 4, 5).
15453–N		HRD Aero Systems Inc. Valencia, CA.	49 CFR 173.302a and 173.304a	To authorize the transportation in commerce of certain cylinders manufactured under DOT–SP 7971 which contain bromochlorodi-fluoromethane and nitrogen. (modes 1, 2, 3, 4, 5).
15454–N		Hoke, Inc. Spartanburg, SC	49 CFR 178.39	To authorize the re-manufacturing of specific DOT Specification 3BN cylinders by reducing the volume from 4500 cc to 3000 cc. (mode 1)

[FR Doc. 2011–23819 Filed 9–16–11; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BL–2, Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Liabilities to Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), Fax (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms webpage, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BL–2, Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Liabilities to Foreigners.

OMB Control Number: 1505–0018.

Abstract: Form BL–2 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BL–2 is a monthly report filed by banks, other depository institutions, brokers and dealers that covers their U.S. customers' dollar liabilities *vis-à-vis* foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BL–2 (1505–0018).

Estimated Number of Respondents: 80.

Estimated Average Time per Respondent: eight and three/tenths (8.3) hours per respondent per filing. This average time varies from 12 hours for

the approximately 30 major data reporters to 6 hours for the other reporters.

Estimated Total Annual Burden Hours: 7,920 hours, based on twelve reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BL–2 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23878 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 13, 2011.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before October 19, 2011 to be assured of consideration.

Financial Management Service (FMS)

OMB Number: 1510–0052.

Type of Review: Extension without change of a currently approved collection.

Title: Financial Institution Agreement and Application Forms for Designation as a Treasury Tax and Loan Depositary and Resolution.

Forms: FMS Forms 458 and 459.

Abstract: Financial institutions are required to complete an agreement and application to participate in the Federal Tax Deposit/Treasury Tax and Loan Program. The approved application designates the depositary as an authorized recipient of taxpayers' deposits for Federal taxes.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 225.

Bureau Clearance Officer: Wesley Powe, Financial Management Service, 3700 East West Highway, Room 144, Hyattsville, MD 20782; (202) 874–8936.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–23905 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers and Dealers, and Their Domestic Customers' Foreign Currency Claims on Foreigners; Part 2: Report of Their Domestic Customers' Foreign Currency Liabilities to Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), FAX (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx*. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BQ–2, Part 1: Report of Foreign Currency Liabilities to, and Claims on, Foreigners of Depository Institutions, Brokers and Dealers, and Their Domestic Customers' Foreign Currency Claims on Foreigners; Part 2: Report of Their Domestic Customers' Foreign Currency Liabilities to Foreigners.

OMB Control Number: 1505–0020.

Abstract: Form BQ–2 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR part 128) and is designed to collect timely information on international portfolio capital movements. Form BQ–2 is a quarterly report that covers the liabilities to, and claims on, foreigners of banks, other depository institutions, brokers and dealers, and their domestic customers' claims and liabilities with foreigners, where all claims and liabilities are denominated in foreign currencies. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–2 (1505–0020)

Estimated Number of Respondents: 149.

Estimated Average Time per Respondent: Six and six/tenths (6.6) hours per respondent per filing. This average time varies from 11 hours for the approximately 30 major reporters to 5.5 hours for the other reporters.

Estimated Total Annual Burden Hours: 3,940 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–2 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23882 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of two information collections that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BC, Report of U.S. Dollar Claims of Depository Institutions, Brokers, and Dealers on Foreigners; and Treasury International Capital (TIC) Form BL–1, Report of U.S. Dollar Liabilities of Depository Institutions, Brokers, and Dealers to Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), fax (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BC, Report of U.S. Dollar Claims of Depository Institutions, Brokers, and Dealers on Foreigners; and Treasury Capital Form BL–1, Report of U.S. Dollar Liabilities of Depository Institutions, Brokers, and Dealers to Foreigners.

OMB Control Numbers: 1505–0017 and 1505–0019.

Abstracts: Forms BC and BL–1 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) for the purpose of providing timely information on international portfolio capital movements. Form BC is a monthly report that covers own U.S. dollar claims of banks, other depository institutions, brokers and dealers vis-à-vis foreign residents. Form BL–1 is a monthly report that covers own U.S. dollar liabilities of banks, other depository institutions, brokers and dealers vis-à-vis foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BC (1505–0017)

Estimated Number of Respondents: 302.

Estimated Average Time per Respondent: Nine and nine/tenths (9.9) hours per respondent per filing. This average time varies from 18 hours for the approximately 30 major data reporters to 9 hours for the other reporters.

Estimated Total Annual Burden Hours: 35,860 hours, based on 12 reporting periods per year.

Form BL–1 (1505–0019)

Estimated Number of Respondents: 348.

Estimated Average Time per Respondent: Seven and one/tenth (7.1) hours per respondent per filing. This average time varies from 13 hours for the approximately 30 major data reporters to 6.5 hours for the other reporters.

Estimated Total Annual Burden Hours: 29,485 hours, based on 12 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Forms BC and BL–1 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23873 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 13, 2011.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before October 19, 2011 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0021.

Type of Review: Extension without change of a currently approved collection.

Title: Formula and Process for Non Beverage Product.

Form: TTB F 5154.1.

Abstract: Businesses using taxpaid distilled spirits to manufacture non beverage products may receive drawback (*i.e.,* a refund or remittance) of tax, if they can show that the spirits were used in the manufacture of products unfit for beverage use. This showing is based on the formula for the product, which is submitted on TTB Form 5154.1.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 2,444.

Clearance Officer: Gerald Isenberg, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street, NW., Washington, DC 20005; (202) 453–2165.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–23904 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form BQ–3, Report of Maturities of Selected Liabilities of Depository Institutions, Brokers and Dealers to Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), fax (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Titles: Treasury International Capital Form BQ–3, Report of Maturities of Selected Liabilities of Depository Institutions, Brokers and Dealers to Foreigners.

OMB Control Number: 1505–0189.

Abstract: Form BQ–3 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. Form BQ–3 is a quarterly report designed to capture, by instrument and on an aggregate basis, remaining maturities of all U.S. dollar and foreign currency liabilities (excluding securities) of U.S. resident banks, other depository institutions, brokers and dealers to foreign residents. This information is necessary for meeting international data reporting standards and for formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations. Form BQ–3 (1505–0189) .

Estimated Number of Respondents: 117.

Estimated Average Time per Respondent: Four (4) hours per respondent per filing.

Estimated Total Annual Burden Hours: 1,870 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–3 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23879 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Forms CQ–1 and CQ–2, Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESS: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), fax (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Web page for forms, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional

information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form CQ–1, Financial Liabilities to, and Claims on, Unaffiliated Foreigners; and Treasury International Capital Form CQ–2, Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

OMB Number: 1505–0024.

Abstract: Forms CQ–1 and CQ–2 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Forms CQ–1 and CQ–2 are quarterly reports filed by nonbanking and non-securities broker and dealer enterprises in the U.S. to report their international portfolio transactions with unaffiliated foreigners. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Forms CQ–1 and CQ–2 (1505–0024)

Estimated Number of Respondents: 204.

Estimated Average Time per Respondent: Six and nine/tenths (6.9) hours per respondent per filing. This average time varies from 13 hours for the approximately 12 major data reporters to 6.5 hours for the other reporters.

Estimated Total Annual Burden Hours: 5,615 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Forms CQ–1 and CQ–2 are necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23880 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Departmental Offices; Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form BQ–1, Report by Depository Institutions, Brokers and Dealers of Their Domestic Customers' U.S. Dollar Claims on Foreigners.

DATES: Written comments should be received on or before November 18, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by e-mail (*comments2TIC@treasury.gov*), fax (202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form BQ–1. Report by Depository Institutions, Brokers and Dealers of Customers' U.S. Dollar Claims on Foreigners.

OMB Control Number: 1505–0016.

Abstract: Form BQ–1 is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. This quarterly report filed by depository institutions, brokers and dealers covers their U.S.-resident customers' dollar claims on foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: None.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form BQ–1 (1505–0016).

Estimated Number of Respondents: 77.

Estimated Average Time per Respondent: Three and one/tenth (3.1) hours per respondent per filing. This average time varies from 4.5 hours for the approximately 30 major data reporters to 2.3 hours for the other reporters.

Estimated Total Annual Burden Hours: 965 hours, based on four reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form BQ–1 is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2011–23883 Filed 9–16–11; 8:45 am]

BILLING CODE 4810–25–P

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Federal Register

Vol. 76, No. 181

Monday, September 19, 2011

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

54373–54688 1
54689–54920 2
54921–55208 6
55209–55552 7
55553–55778 8
55779–56090 9
56091–56276 12
56277–56634 13
56635–56944 14
56945–57624 15
57625–57896 16
57897–58088 19

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8700 54919
8701 54921
8702 55207
8703 55209
8704 55211
8705 55549
8706 55551
8707 55779
8708 56939
8709 56941
8710 56943
8711 57617

Executive Orders:
13584 56945

Administrative Orders:
Notices:
Notice of September 9, 2011 56633

Memorandums:
Memo. of September 12, 2011 57621

Presidential Determinations:
No. 2011–15 of September 13, 2011 57623

5 CFR

843 55213

Proposed Rules:
2635 56330

7 CFR

1450 56949
1735 56091

Proposed Rules:
505 57681
983 57001
1033 55608
1493 57940
3201 56884

8 CFR

103 55502
214 55502
274a 55502
299 55502

Proposed Rules:
204 54978
205 54978
245 54978

9 CFR

77 56635
88 55213

Proposed Rules:
71 57682
77 57682
78 57682
90 57682

10 CFR

30 56951
36 56951
39 56951
40 56951
51 56951
70 56951
150 56951
429 57897
430 ..... 57516, 57612, 57897

Proposed Rules:
Ch. I 54986
2 54392
30 57006
31 56124
150 57007
429 56661
430 ..... 55609, 56125, 56126, 56339, 56347, 56661, 56678
431 ..... 55834, 56126, 57007
810 55278

12 CFR

48 56094
207 56508
215 56508
223 56508
228 56508
238 56508
239 56508
261 56508
261b 56508
262 56508
263 56508
264a 56508
Ch. VI 54638

Proposed Rules:
225 55288
241 54717
704 54991

14 CFR

17 55217
23 55230
25 ..... 54923, 57625, 57627
33 ..... 55553, 56097
39 ..... 54373, 54926, 55781, 55783, 55785, 56277, 56279, 56284, 56286, 56290, 56637, 57630, 57900
71 ..... 54689, 54690, 55232, 55553, 55554, 55555, 56099, 56966, 56967, 56968, 57633, 57634, 57902
91 57635
97 ..... 55233, 55235, 56969, 56971
119 57635
125 57635
133 57635
137 57635
141 57635
142 57635

145 57635
147 57635
Proposed Rules:
23 55293
39 ....54397, 54399, 54403, 54405, 55296, 55614, 56680
71 ....55298, 56127, 56354, 56356
252 57008

15 CFR
738 54928
740 ....54928, 56099
742 56099
745 54928
748 54928
774 56099
922 56973

16 CFR
2 54690
Proposed Rules:
Ch. II 57682

17 CFR
5 56103
49 54538
200 57636
239 55788
240 54374
249 55788
269 55788
271 55237
274 55788
Proposed Rules:
Ch. II 56128
270 ....55300, 55308

19 CFR
102 54691
351 54697

20 CFR
404 56107
416 56107
422 54700
Proposed Rules:
404 56357
416 56357

21 CFR
522 ....57905, 57906
556 ....57906, 57907
Proposed Rules:
50 54408
56 54408
73 55321
352 56682
1140 55835
1308 55616

25 CFR
Proposed Rules:
Ch. III 54408, 57683

26 CFR
1 ....55255, 55256, 55746, 56973
301 55256
602 55746
Proposed Rules:
1 ....54409, 55321, 55322, 57684

28 CFR
Proposed Rules:
16 57940
524 57012

29 CFR
4022 56973
4044 56973
Proposed Rules:
570 54836
579 54836
1602 57013

30 CFR
Proposed Rules:
250 56683
1202 ....55837, 55838
1206 ....55837, 55838

31 CFR
240 57907
Proposed Rules:
1 55839

32 CFR
199 ....57637, 57642, 57643
256 57644
311 57644
Proposed Rules:
199 57690

33 CFR
100 ....55556, 55558, 55561, 57645
117 55563
165 ....54375, 54377, 54380, 54382, 54703, 55261, 55564, 55566, 55796, 56638, 56640, 57910

36 CFR
242 56109
Proposed Rules:
7 55840

37 CFR
Proposed Rules:
2 55841
7 55841

38 CFR
17 55570
51 55570

39 CFR
20 55799
111 54931
Proposed Rules:
3055 55619

40 CFR
52 ....54384, 54706, 55542, 55544, 55572, 55577, 55581, 55774, 55776, 55799, 56114, 56116, 56641, 57106
63 57913
85 57106
86 ....54932, 57106
116 55583
124 56982
132 57646
144 56982
145 56982
146 56982
147 56982
174 57653
180 ....55264, 55268, 55272, 55799, 55804, 55807, 55814, 56644, 56648, 57657
281 57659
300 ....56294, 57661, 57662
302 55583
600 57106
704 54932
710 54932
711 54932
1033 57106
1036 57106
1037 57106
1039 57106
1065 57106
1066 57106
1068 57106
Proposed Rules:
52 ....54410, 54993, 55325, 55621, 55842, 56130, 56132, 56134, 56694, 56701, 56706, 57013, 57691, 57696, 57846, 57872
81 54412
98 56010
180 55329
260 55846
261 55846
271 56708
300 ....56362, 57701, 57702
721 55622
745 56136

41 CFR
300-3 55273
301-2 55273
301-10 55273
301-11 55273
301-52 55273
301-70 55273
301-71 55273
Proposed Rules:
128-1 55332

42 CFR
414 54953
417 54600
422 54600
423 54600
455 57808
Proposed Rules:
5 54996
493 56712

44 CFR
64 ....54708, 56117
Proposed Rules:
67 ....54415, 54721, 56724

45 CFR
154 54969
Proposed Rules:
46 54408
160 54408
164 ....54408, 56712

46 CFR
160 56294
Proposed Rules:
2 55847
8 54419
15 55847
136 55847
137 55847
138 55847
139 55847
140 55847
141 55847
142 55847
143 55847
144 55847
381 57941
382 57941

47 CFR
0 56657
1 55817
15 56657
25 57923
54 56295
73 ....55585, 55817, 56658
76 55817
79 ....55585, 56658
90 54977
300 56984
Proposed Rules:
1 54422
63 56362

48 CFR
203 57671
209 57674
216 ....57674, 57677
252 ....57671, 57674
Proposed Rules:
1 55849
2 55849
4 55849
12 55849
14 55849
15 55849
19 55849
22 55849
26 55849
52 55849
53 55849
1852 57014

49 CFR
37 57924
38 57924
105 56304
106 56304
107 56304
130 56304
171 56304
172 56304
173 56304
174 56304
176 56304
177 56304
213 55819
393 56318
523 57106
534 57106
535 57106
571 ....55825, 55829
Proposed Rules:
10 55334
Ch. II 55622
269 55335
Ch. III 54721
571 55859
633 56363

50 CFR
17 54711
20 ....54658, 54676
32 56054
100 56109
622 56659
635 56120
648 ....54385, 56322, 56985

660.....54713, 56327
665.....54715
679 .....54716, 55276, 55606, 57679

Proposed Rules:
17 .....54423, 55170, 55623, 55638, 56381, 57943
300.....55343
622.....54727
635.....57709
640.....54727
648.....57944
660 .....54888, 55344, 55865, 57945
679.....55343

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 2553/P.L. 112–27
Airport and Airway Extension Act of 2011, Part IV (Aug. 5, 2011; 125 Stat. 270)

H.R. 2715/P.L. 112–28
To provide the Consumer Product Safety Commission with greater authority and discretion in enforcing the consumer product safety laws, and for other purposes. (Aug. 12, 2011; 125 Stat. 273)

Last List September 5, 2011

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