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WHEN: Tuesday, March 13, 2012
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Presidential Documents

Title 3—

The President

Memorandum of February 27, 2012

Delegation of Reporting Function Specified In Section 1043 of the National Defense Authorization Act for Fiscal Year 2012

Memorandum for the Secretary of Defense [and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting function conferred upon the President by section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81).

The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, February 27, 2012

[FR Doc. 2012–5270
Filed 3–1–12; 8:45 am]
Billing code 5000–04–P

Rules and Regulations

Federal Register
Vol. 77, No. 42
Friday, March 2, 2012

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 LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States; Announcement of Non-Material Change to the Farm Labor Survey Used for Determining the Adverse Effect Wage Rate

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Announcement of non-material change.

SUMMARY: Under the Department of Labor's (we or the Department) H–2A temporary labor certification program, Adverse Effect Wage Rates (AEWRs) are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment for a particular occupation and area such that the wages of similarly employed United States (U.S.) workers will not be adversely affected. 20 CFR 655.100(b). AEWRs are derived from the Farm Labor Survey (FLS) issued by the U.S. Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS). In the interest of government transparency, we are publishing this document to announce a non-material change in the frequency of establishment surveys under the FLS (and its accompanying publication) beginning in 2012.

DATES: This announcement is effective March 2, 2012.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room C–4312, Washington, DC 20210; Telephone (202) 693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY calling the toll-free Federal Information Relay Service as 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H–2A labor certification. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5).

The Department's H–2A regulations at 20 CFR 655.120(a) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing wage; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage, if applicable; or (v) the Federal or State minimum wage, in effect at the time the work is performed. The H–2A regulations define the AEWR as ''[t]he annual weighted average hourly wage for field and livestock workers (combined) in the States or regions as published annually by the U.S. Department of Agriculture (USDA) based upon its quarterly wage survey.'' 20 CFR 655.103(a) and (b).

NASS historically has conducted the FLS on which the AEWR is based. The FLS provides quarterly statistics on the number of agricultural workers; hours worked, and wage rates. We have relied upon the FLS since 1987 [1] as the basis for setting the AEWR. We explain our reasons in great detail in the preamble of the ''Temporary Agricultural Employment of H–2A Aliens in the United States; Final Rule'', 75 FR 6884, 6891–6901, Feb. 12, 2010 (the 2010 H–2A Rule). However, we are publishing several clarifications in light of recent changes to the method by which the FLS is conducted.

We stated in the preamble to the 2010 H–2A Final Rule that

> [t]he FLS is conducted each year in January, April, July and October, and results are published the following month.

We also stated in the preamble that:

> The FLS and publication schedule provide timely data for purposes of calculating the relevant State AEWRs. Specifically, the FLS is routinely available and published within 1 month of the survey date. The quarterly gathering of data ensures that the annual averages are more accurately reflective of the fluctuations of farm labor patterns, which are by definition seasonal and thus more subject to fluctuation than other occupations.

However, beginning calendar year 2012, NASS will conduct the FLS semi-annually and collect data for January and April during April and collect data for July and October during October. In other words, NASS will continue to collect data from all four quarters but will only survey the establishments twice a year, with publication of the results the following month. Other than this change in frequency in which establishments are surveyed, and the accompanying publication of the results, the FLS remains the same as described in the preamble to the 2010 H–2A Rule. NASS will continue to include its annual average estimate for wage rates, based on data collected from all four quarters of the year, in the October FLS report which is published in November.

The change in how frequently establishments are surveyed (and the accompanying publication of those results) does not change the statistical validity of the FLS. In the fall of 2011, NASS conducted an internal review and found that there was not enough evidence to conclude that collecting quarterly data at 3 months after the estimation period resulted in a statistically significant recall bias. Accordingly, the definition of AEWR at

[1] There a brief period of deviation beginning January 17, 2009 through March 14, 2010, where we decided to use the Bureau of Labor Statistics Occupational Employment Statistics Survey rather than the FLS to set the AEWR. See ''Temporary Agricultural Employment of H–2A Aliens in the United States; Modernizing the Labor Certification Process and Enforcement, Final Rule'', 73 FR 77110, Dec. 18, 2008.

20 CFR 655.103(b) [2] and the justification for returning to the FLS as the basis for the AEWR continue to apply and are not materially affected by this procedural change.

Signed in Washington, DC, this 28th day of February, 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–5201 Filed 2–29–12; 4:15 pm]

BILLING CODE 4510–FP–P

[2] Although the definition of AEWR refers to ''quarterly surveys,'' we do not believe that it is necessary to replace that reference with ''semi-annual surveys,'' as the NASS will continue to collect wage data from all four quarters and the annual weighted average hourly wage for field and livestock workers (combined) in the States or regions would continue to be based upon that quarterly wage data.

POSTAL SERVICE™

39 CFR Part 20

International Postal Service—Global Expedited Package Services (GEPS) Contracts

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service will revise *Mailing Standards of the United States Postal* Service, International Mail Manual (IMM®) to incorporate a change concerning the requirements that a mailer must meet in order to qualify for a Global Expedited Package Services (GEPS) contract.

DATES: *Effective date:* April 1, 2012.

FOR FURTHER INFORMATION CONTACT: Margaret M. Falwell, 202–268–2576.

SUPPLEMENTARY INFORMATION: The United States Postal Service® gives notice that, on January 30, 2012, the Postal Service filed with the Postal Regulatory Commission a notice of a minor classification change for the international competitive product Global Expedited Package Services (GEPS) Contracts. The minor classification change concerns the requirements that a mailer must meet in order to qualify for a GEPS contract. This change is designed for consistency with published commercial plus pricing discounts for Express Mail International and Priority Mail International. The Commission concurred with the notice in its Order No. 1225, issued on February 10, 2012. Documents are available at *www.prc.gov,* Docket No. MC2012–8.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR Part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

* * * * *

2 Conditions for Mailing

* * * * *

297 Customized Agreements

* * * * *

297.2 Qualifying Mailers

[Revise IMM 297.2 as follows:]

To qualify for a GEPS contract, a mailer must be capable, on an annualized basis, of paying at least $200,000 in international postage to the Postal Service.

* * * * *

We will publish an amendment to 39 CFR part 20 to reflect these changes.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–5049 Filed 3–1–12; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0850–201154(a); FRL–9639–8]

Approval and Promulgation of Implementation Plans; Georgia; Macon; Fine Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory, portion of the State Implementation Plan (SIP) revision submitted by the State of Georgia on August 17, 2009. The emissions inventory is part of the Macon, Georgia (hereafter referred to as ''the Macon Area'' or ''Area''), $PM_{2.5}$ attainment demonstration that was submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective May 1, 2012 without further notice, unless EPA receives adverse comment by April 2, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0850, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2011–0850,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2011–0850. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you

include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. Analysis of State's Submittal
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter based on a 3-year average of annual mean $PM_{2.5}$ concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Macon Area (which is comprised of Bibb County in its entirety and a portion of Monroe County) was designated nonattainment for the 1997 annual $PM_{2.5}$ NAAQS. *See* title 40 CFR 81.311.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP under title I, part D of the CAA. This SIP must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP to EPA. For the 1997 $PM_{2.5}$ NAAQS, these SIPs were due April 5, 2008. *See* 40 CFR 51.1002(a).

On August 17, 2009, Georgia submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual $PM_{2.5}$ NAAQS in the Macon Area. Subsequently, on June 2, 2011 (76 FR 13858), EPA determined that the Macon Area attained the 1997 annual average $PM_{2.5}$ NAAQS. The determination of attainment was based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 period, showing that the Area had monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 annual $PM_{2.5}$ NAAQS. *See* 40 CFR 51.1004(c).

On June 29, 2011, Georgia withdrew [1] the Macon Area's attainment demonstration (except the emissions inventory) as allowed by 40 CFR 51.1004(c); however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 172(c)(3). Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is now approving the emissions inventory portion of the SIP revision submitted by the State of Georgia on August 17, 2009, as required by section 172(c)(3).

[1] Per phone conversation between Lynorae Benjamin (EPA Region 4) and Jimmy Johnson (Georgia Department of Natural Resources) on October 17, 2011 the withdrawal notice did not include the emissions inventory portion of the submittal.

II. Analysis of State's Submittal

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Georgia selected 2002 as base year for the emissions inventory per 40 CFR 51.1008(b). Emissions contained in the Macon attainment plan cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Appendix H of the Georgia submittal; a summary is provided below.

The table below provides a summary of the annual 2002 emissions of nitrogen oxides (NO_X), sulfur dioxide (SO_2) and $PM_{2.5}$.

TABLE 1—2002 ANNUAL EMISSIONS FOR THE MACON AREA (TONS)

County	NO_X	SO_2	$PM_{2.5}$
	Point Sources		
Bibb	3,608.6	4,816.1	298.0
Monore [2]	206.4	647.0	2.0
	Non-Road Sources		
Bibb	1,325.3	105.0	89.3
Monore [2]	3.4	0.3	0.2
	Area Sources		
Bibb	740.6	1,201.1	897.9
Monore [2]	0.9	0.5	5.1
	Mobile Sources		
Bibb	5,466.0	220.6	80.4
Monore [2]	24.0	0.9	0.4

[2] Emissions are for the partial county.

The 172(c)(3) emissions inventory is developed by the incorporation of data from multiple States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, nonroad mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case

in the development of the 2002 emissions inventory that was submitted in the state's attainment SIP for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations'' (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 172(c)(3) and the implementing regulations.

EPA has reviewed Georgia's emissions inventory and finds that it is adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement. The emissions inventory is approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the SIP revision submitted by the State of Georgia on August 17, 2009. This action is being taken pursuant to section 110 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 1, 2012 without further notice unless the Agency receives adverse comments by April 2, 2012.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 1, 2012 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 1, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Reporting and recordkeeping requirements and Sulfur oxides.

Dated: February 16, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570(e) is amended by adding a new entry 32 to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
*	*	*	*
32. Macon 1997 Fine Particulate Matter 2002 Base Year Emissions Inventory.	Bibb County and Monroe County	8/17/2009	3/02/12 [Insert citation of publication]

[FR Doc. 2012–4996 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–0138; FRL–9336–5]

Trifloxystrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of trifloxystrobin in or on coffee, green bean. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 2, 2012. Objections and requests for hearings must be received on or before May 1, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2011–0138. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Rosemary Kearns, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5611; email address: *kearns.rosemary@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–0138 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 1, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–0138, by one of the following methods:

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 30, 2011 (76 FR 82238) (FRL–9331–1), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E7789) by Bayer CropScience Corporation, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.555 be amended by establishing tolerances for residues of the fungicide trifloxystrobin [benzeneacetic acid, (E, E)-a-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl)phenyl] ethylidene]amino]oxy]methyl]-methyl ester] and the free form of its acid metabolite CG–321113 [(E,E)-(methoxyimino)-[2-[1-(3-(trifluoromethylphenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid, in or on imported coffee, green bean at 0.02 parts per million (ppm). That notice referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov:* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for trifloxystrobin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with trifloxystrobin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Trifloxystrobin exhibits low acute toxicity following single oral, dermal and inhalation exposures. It is a strong dermal sensitizer. In repeated dose tests in rats, the liver is the target organ for trifloxystrobin. There is no evidence of increased susceptibility following pre-natal exposure to rats and rabbits and post-natal exposures to rats. Trifloxystrobin was determined not to be carcinogenic in mice or rats following long-term dietary administration. Trifloxystrobin is positive for mutagenicity in Chinese Hamster V79 cells, albeit at cytotoxic dose levels. However, trifloxystrobin is negative in the remaining mutagenicity studies.

Specific information on the studies received and the nature of the adverse effects caused by trifloxystrobin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Trifloxystrobin Human Health Risk Assessment for Proposed New Use on Imported Coffee,'' p.11 in docket ID number EPA–HQ–OPP–2011–0138.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for trifloxystrobin used for human risk assessment is discussed in Unit III.B. of the final rule published in the **Federal Register** of June 11, 2010 (75 FR 33192) (FRL–8829–2).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to trifloxystrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing trifloxystrobin tolerances in 40 CFR part 180. EPA assessed dietary exposures from trifloxystrobin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for trifloxystrobin. In estimating acute dietary exposure for females 13–49 years old, EPA conducted an analysis using the Dietary Exposure Evaluation Model (DEEM™ 7.81), which used food consumption information from the

United States Department of Agriculture (USDA) 1994–1996 and 1998, Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all commodities with established or proposed tolerances were treated with trifloxystrobin and contained trifloxystrobin at the tolerance level.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII to be included in DEEM. As to residue levels in food, EPA used tolerance level residues for all commodities with the exception of apples, oranges and grapes. For these commodities EPA used data from field residue trials. EPA assumed all commodities with established or proposed tolerances were treated with trifloxystrobin.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that trifloxystrobin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for trifloxystrobin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of trifloxystrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), GENeric Estimated Exposure Concentration (GENEEC), and/or Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of trifloxystrobin plus its major degradation product, CGA–321113 for the proposed alfalfa use are less than those previously estimated in the revised EDWCs for turf use.

For acute and chronic exposures are estimated to be 47.98 parts per billion (ppb) and 47.31 ppb for surface water. The ground water EDWC (1.9 µg/L, or 1.9 ppb) represents the combined residues of trifloxystrobin plus CGA–321113, respectively. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Trifloxystrobin is currently registered for the following uses that could result in residential exposures: Trifloxystrobin is currently registered for the following uses that could result in residential exposures: Ornamentals and turfgrass. EPA assessed residential exposure under the following exposure scenarios: Adult post-application dermal exposure; and children's postapplication dermal and/or hand to mouth exposure. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.* EPA assessed residential exposure using the following assumptions:

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found trifloxystrobin to share a common mechanism of toxicity with any other substances, and trifloxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that trifloxystrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10×) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10×, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no indication of increased quantitative or qualitative susceptibility to trifloxystrobin in rats or rabbits. In the prenatal developmental study in rats, there was no developmental toxicity at the limit dose. In the prenatal developmental study in rabbits, developmental toxicity was seen at a dose that was higher than the dose that caused maternal toxicity. In the multigeneration study, offspring and parental LOAELs are at the same dose level.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1×. That decision is based on the following findings:

i. The toxicity database for trifloxystrobin is complete except for immunotoxicity testing. Recent changes to 40 CFR part 158 make neurotoxicity and immunotoxicity testing required for pesticide registration; however, the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios, and for evaluation of the requirements under the FQPA. Although acute and subchronic neurotoxicity and immunotoxicity studies are needed to complete the database, there are no concerns for immunotoxicity or neurotoxicity based on the results of the existing studies. The toxicological database for trifloxystrobin does not show any evidence of treatment-related effects on the immune system. There was a decrease in the incidence of hemosiderosis in the spleen of F0 and F1 parental males and females in the 2-generation reproduction study. The effect was not seen in any other toxicity studies, and it was not a primary effect

on the spleen. This decrease may indicate a decrease of red blood cell turnover; but it is not an effect on the immune system. Further, there was no evidence of neurotoxicity at the limit dose in an unacceptable acute neurotoxicity study or in the other subchronic and chronic studies in the database. The EPA does not believe that conducting neurotoxicity or immunotoxicity studies will result in a dose less than the points of departure already used in this risk assessment and an additional database uncertainty factor (UF) for potential neurotoxicity and/or immunotoxicity does not need to be applied.

ii. There is no indication that trifloxystrobin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that trifloxystrobin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The acute and chronic dietary food exposure assessments utilize existing and proposed tolerance level residues and 100 PCT information for all commodities, except for apples, oranges, and grapes which utilized field trial residue levels for the chronic dietary assessment. By using these screening-level assessments with minor refinement, actual exposures/risks from residues in food will not be underestimated. EPA made conservative (protective) assumptions in the ground surface and surface water modeling used to assess exposure to trifloxystrobin in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by trifloxystrobin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to trifloxystrobin will occupy <2% of the aPAD for females 13–49 years old.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to trifloxystrobin from food and water will utilize 34% of the cPAD for the general U.S. population and 64% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of trifloxystrobin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Trifloxystrobin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to trifloxystrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 1100 for adults (dermal residential + dietary food and drinking water exposures); 650 for children 1–2 years (dermal residential + dietary food and drinking water exposures); and 130 for children 1–2 years (incidental oral + dietary food and drinking water exposures). Because EPA's level of concern for trifloxystrobin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Trifloxystrobin is not expected to pose an intermediate-term risk based on a short soil half-life (approximately 2 days).

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, trifloxystrobin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to trifloxystrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies (gas chromatography with nitrogen phosphorus detection (GC/NPD), Method AG–659A and liquid chromatography with tandem mass spectrometry detection (LC/MS/MS), Method No. 200177) are available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. There are currently no established Mexican, Canadian, or Codex maximum residue limits (MRLs) or tolerances for trifloxystrobin on coffee. Therefore, harmonization is not an issue at this time.

V. Conclusion

Therefore, a tolerance is established for residues of [benzeneacetic acid, (E, E)-a-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl)phenyl]ethylidene] amino]oxy]methyl]-methyl ester] and

the free form of its acide metabolite CG–321113 [(E,E)-(methoxyimino)-[2-[1-(3-(trifluoromethylphenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid, in or on imported coffee, green bean at 0.02 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register.** This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2012.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.555 is amended by alphabetically adding the following commodity and footnote 2 to the table in paragraph (a) to read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Coffee, green bean [2]	0.02
* * * * *	
* * * * *	

[2] There are no U.S. registrations as of January 18, 2012 for use on coffee, green bean.

* * * * *

[FR Doc. 2012–4977 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–1079; FRL–9331–8]

Thiamethoxam; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of thiamethoxam in or on multiple commodities which are identified and discussed later in this document. Syngenta Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 2, 2012. Objections and requests for hearings must be received on or before May 1, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–1079. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Gene Benbow, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0235; email address: *Benbow.Gene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–1079 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 1, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–1079, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 26, 2011 (76 FR 53372) (FRL–8884–9), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F7805) by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. The petition requested that 40 CFR 180.565 be amended by establishing tolerances for residues of the insecticide thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine and its metabolite, *N*-[(2-chloro-thiazol-5-yl)methyl]-*N'*-methyl-*N''*-nitro-guanidine], in or on: buckwheat, grain at 0.02 per million (ppm); buckwheat, forage at 0.50 ppm; buckwheat, hay at 0.02 ppm; buckwheat, straw at 0.02 ppm; oat, grain at 0.02 ppm; oat, forage at 0.50 ppm, oat, hay at 0.02 ppm; oat, straw at 0.02 ppm; millet, pearl, grain at 0.02 ppm; millet, pearl, forage at 0.02 ppm; millet, pearl, stover at 0.02 ppm; millet, proso, grain at 0.02 ppm; millet, proso, forage at 0.02 ppm; millet, proso, stover at 0.02 ppm; millet, proso, straw at 0.02 ppm; rye, grain at 0.02 ppm; rye, forage at 0.50 ppm; rye, straw at 0.02 ppm; teosinte, grain at 0.02 ppm; teosinte, forage at 0.10 ppm; teosinte, stover at 0.05 ppm; triticale, grain at 0.02 ppm; triticale, forage at 0.05 ppm; triticale, hay at 0.02 ppm; triticale, straw at 0.02 ppm; wild rice, grain at 0.02 ppm. That notice referenced a summary of the petition prepared by Syngenta Crop Protection, Inc., the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue * * *.''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for thiamethoxam including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with thiamethoxam follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Thiamethoxam shows toxicological effects primarily in the liver, kidney, testes, and hematopoietic system. In addition, developmental neurological effects were observed in rats. This developmental effect is being used to assess risks associated with acute exposures to thiamethoxam, and the liver and testicular effects are the basis for assessing longer term exposures. Although thiamethoxam causes liver tumors in mice, the Agency has classified thiamethoxam as ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of action for cancer.

Specific information on the studies received and the nature of the adverse effects caused by thiamethoxam as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in section 4.5.1 in the document ''Thiamethoxam—Human Health Risk Assessement for Crop Group 15 (including buckwheat, pearl millet, proso millet, oats, rye, teosinte, triticale) and Crop Group 16 Commodities (forage, fodder and straw of cereal grains group)'' in docket ID number EPA–HQ–OPP–2010–1079 at *http://www.regulations.gov.*

Thiamethoxam produces a metabolite known as CGA–322704 (referred to in the remainder of this rule as clothianidin). Clothianidin is also registered as a pesticide. While some of the toxic effects observed following testing with thiamethoxam and clothianidin are similar, the available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately. A separate risk assessment of clothianidin has been completed in conjunction with the registration of clothianidin. The most recent assessment, which provides details regarding the toxicology of clothianidin, is available in the docket EPA–HQ–OPP–2008–0945, at *http://www.regulations.gov.* Refer to the document ''Clothianidin: Human Health Risk Assessment for the Requested New Use on Mustard Seen as well as New Uses of Thiamethoxam on Peanuts, Alfalfa, in Food-Handling Establishments, and as a Seed Treatment for Cereal Grains.''

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors (U/S F) are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for thiamethoxam used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (All populations including infants and children).	NOAEL = 34.5 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1	Acute RfD = 0.35 mg/kg/day. aPAD = 0.35 mg/kg/day	Rat Developmental Neurotoxicity study. LOAEL = 298.7 mg/kg/day based on delayed sexual maturation in male pups, and reduced brain morphometric measurements.
Chronic dietary (All populations including infants and children).	NOAEL = 1.2 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1	Chronic RfD = 0.012 mg/kg/day. cPAD = 0.012 mg/kg/day.	2-Generation reproduction study. 1. LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F_1 generation males. 2-Generation reproduction study. 2. LOAEL = 3 (males), not determined (females) mg/kg/day based on sperm abnormalities in F_1 males.
Incidental oral (all durations).	NOAEL = 8.23 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1	MOE = 100 (residential)	90-day Dog study. LOAEL = 32 (males) 33.9 (females) mg/kg/day based on slightly prolonged prothrombin times and decreased plasma albumin and A/G ratio (both sexes); decreased calcium levels and ovary weights and delayed maturation in the ovaries (females); decreased cholesterol and phospholipid levels, testis weights, spermatogenesis, and spermatic giant cells in testes (males).

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR THIAMETHOXAM FOR USE IN HUMAN HEALTH RISK ASSESSMENT—Continued

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Dermal (all durations) (Adults).	Oral study NOAEL = 1.2 mg/kg/day (dermal absorption rate = 5%) UF_A = 10x UF_H = 10x FQPA SF = 1	MOE = 100 (residential)	2-Generation reproduction study. LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F_1 generation males. 2-Generation reproduction study. LOAEL = 3 (males), not determined (females) mg/kg/day based on sperm abnormalities in F_1 males.
Dermal (all durations) (infants/children 1–6 yrs).	Dermal study NOAEL = 60 mg/kg/day UF_A = 10x UF_H = 10x FQPA SF = 1	MOE = 100 (residential)	Rat 28-Day Dermal Toxicity Study. LOAEL = 250 (females) mg/kg/day based on increased plasma glucose, triglyceride levels, and alkaline phosphatase activity and inflammatory cell infiltration in the liver and necrosis of single hepatocytes in females.
Inhalation (all durations)	Oral study NOAEL = 1.2 mg/kg/day (inhalation absorption rate = 100% of oral absorption) UF_A = 10x UF_H = 10x FQPA SF = 1	MOE = 100 (residential)	2-Generation reproduction study. LOAEL = 1.8 mg/kg/day based on increased incidence and severity of tubular atrophy in testes of F_1 generation males. 2-Generation reproduction study. LOAEL = 3 (males), not determined (females) mg/kg/day based on sperm abnormalities in F_1 males.

UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = Food Quality Protection Act Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern. mg/kg/day = milligrams/kilogram/day.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to thiamethoxam, EPA considered exposure under the petitioned-for tolerances as well as all existing thiamethoxam tolerances in 40 CFR 180.565. EPA assessed dietary exposures from thiamethoxam in food as follows:

For both acute and chronic exposure assessments for thiamethoxam, EPA combined residues of clothianidin coming from thiamethoxam with residues of thiamethoxam *per se.* As discussed in this unit, thiamethoxam's major metabolite is CGA–322704, which is also the registered active ingredient in clothianidin. Available information indicates that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately; however, these exposure assessments for this action incorporated the total residue of thiamethoxam and clothianidin from use of thiamethoxam because the total residue for each commodity for which thiamethoxam has a tolerance has not been separated between thiamethoxam and its clothianidin metabolite. The combining of these residues, as was done in this assessment, results in highly conservative estimates of dietary exposure and risk. A separate assessment was done for clothianidin. The clothianidin assessment included clothianidin residues from use of clothianidin as a pesticide and clothianidin residues from use of thiamethoxam on those commodities for which the pesticide clothianidin does not have a tolerance. As to these commodities, EPA has separated total residues between thiamethoxam and clothianidin.

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for thiamethoxam. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). For residue levels in food, EPA assumed tolerance level residues of thiamethoxam and clothianidin. It was further assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin were treated.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment, EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. For residue levels in food, EPA assumed tolerance level and/or anticipated residues (averages) from field trial data. It was again assumed that 100% of crops with registered or requested uses of thiamethoxam and 100% of crops with registered or requested uses of clothianidin were treated.

A complete listing of the inputs used in these assessments can be found in the following documents: ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Section 3 Registration on Crop Group 15/16 Commodities'' available in the docket EPA–HQ–OPP–2010–1079, at *http://www.regulations.gov;* and ''Clothianidin—Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments to Evaluate Requested Uses on Mustard Seed and Requested uses of Thiamethoxam on Peanuts, in Food-Handling Establishments, and as a Seed Treatment for Cereal Grains,'' available in the docket EPA–HQ–OPP–2008–0945, at *http://www.regulations.gov.*

iii. *Cancer.* EPA concluded that thiamethoxam is ''not likely to be carcinogenic to humans'' based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse, and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. The non-cancer (chronic) assessment is sufficiently protective of the key events (perturbation of liver metabolism, hepatotoxicity/regenerative proliferation) in the animal mode of

action for cancer and thus a separate exposure assessment pertaining to cancer risk is not necessary. Because clothianidin is not expected to pose a cancer risk, a quantitative dietary exposure assessment for the purposes of assessing cancer risk was not conducted.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for thiamethoxam in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of thiamethoxam. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Tier 1 Rice Model for surface water and the Screening Concentration in Ground Water (SCI–GROW) model for ground water, the estimated drinking water concentrations (EDWCs) of thiamethoxam for acute exposures are estimated to be 0.13177 ppm for surface water and 0.00466 ppm for ground water. The chronic exposure for surface water and ground water is estimated to be 0.01131 ppm and 0.00466 ppm respectively. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

Since clothianidin is not a significant degradate of thiamethoxam in surface water or ground water sources of drinking water, it was not included in the EDWCs for the thiamethoxam dietary assessment. For the clothianidin assessments, the EDWC value of 0.0724 ppm for clothianidin was incorporated into the acute and chronic dietary assessments.

A complete listing of the inputs used in these assessments can be found in the following documents: ''Thiamethoxam. Acute and Chronic Aggregate Dietary (Food and Drinking Water) Exposure and Risk Assessments for the Section 3 Registration on Crop Group 15/16 Commodities'' available in the docket EPA–HQ–OPP–2010–1079, at *http://www.regulations.gov;* and ''Tier I Drinking Water Exposure Assessment for the Section 3 New Uses of Clothianidin on Rice and Leafy Vegetables,'' available in the docket EPA–HQ–OPP–2008–0945, at *http://www.regulations.gov.*

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Thiamethoxam is currently registered for the following uses that could result in residential exposures: Turfgrass on golf courses, residential lawns, commercial grounds, parks, playgrounds, athletic fields, landscapes, interiorscapes, sod farms, and indoor crack and crevice or spot treatments to control insects in residential settings. EPA assessed residential exposure using the assumption that thiamethoxam is applied by commercial applicators only. However, entering areas previously treated with thiamethoxam could lead to exposures for adults and children. As a result, risk assessments have been completed for postapplication scenarios.

Short-term postapplication exposures (1 to 30 days of continuous exposure) may occur as a result of activities on treated turf or entering indoor areas previously treated with a thiamethoxam indoor crack and crevice product. EPA combined all non-dietary sources of children's post application exposure to obtain an estimate of potential combined exposure. These scenarios consisted of dermal postapplication exposure and oral (hand-to-mouth) exposures for children 3 to 6 years of age.

A complete listing of the inputs used in these assessments can be found in the document ''Thiamethoxam—Human Health Risk Assessment for Crop Group 15 (including buckwheat, pearl millet, proso millet, oats, rye, teosinte, triticale) and Crop Group 16 Commodities (forage, fodder and straw of cereal grains group)'' in docket ID number EPA–HQ–OPP–2010–1079 at *http://www.regulations.gov.* Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Thiamethoxam is a member of the neonicotinoid class of pesticides and produces, as a metabolite, another neonicotinoid, clothianidin. Structural similarities or common effects do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same sequence of major biochemical events. Although clothianidin and thiamethoxam bind selectively to insect nicotinic acetylcholine receptors (nAChR), the specific binding site(s)/receptor(s) for clothianidin, thiamethoxam, and the other neonicotinoids are unknown at this time. Additionally, the commonality of the binding activity itself is uncertain, as preliminary evidence suggests that clothianidin operates by direct competitive inhibition, while thiamethoxam is a non-competitive inhibitor. Furthermore, even if future research shows that neonicotinoids share a common binding activity to a specific site on insect nicotinic acetylcholine receptors, there is not necessarily a relationship between this pesticidal action and a mechanism of toxicity in mammals. Structural variations between the insect and mammalian nAChRs produce quantitative differences in the binding affinity of the neonicotinoids towards these receptors, which, in turn, confers the notably greater selective toxicity of this class towards insects, including aphids and leafhoppers, compared to mammals. While the insecticidal action of the neonicotinoids is neurotoxic, the most sensitive regulatory endpoint for thiamethoxam is based on unrelated effects in mammals, including effects on the liver, kidney, testes, and hematopoietic system. Additionally, the most sensitive toxicological effect in mammals differs across the neonicotinoids (e.g., testicular tubular atrophy with thiamethoxam; mineralized particles in thyroid colloid with imidacloprid).

Thus, EPA has not found thiamethoxam or clothianidin to share a common mechanism of toxicity with any other substances. For the purposes of this tolerance action, therefore, EPA has assumed that thiamethoxam and clothianidin do not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines, based on reliable data, that a different margin of safety will be safe for infants and children. This additional margin of

safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* In the developmental studies, there is no evidence of increased quantitative or qualitative susceptibility of rat or rabbit fetuses to *in utero* exposure to thiamethoxam. The developmental NOAELs are either higher than or equal to the maternal NOAELs. The toxicological effects in fetuses do not appear to be any more severe than those in the dams or does. In the rat developmental neurotoxicity study, there was no quantitative evidence of increased susceptibility; however, there was increased qualitative susceptibility because the effects in the pups (reduced brain weight and significant changes in brain morphometric measurements) were considered to be more severe than findings in the dams (decreased body weight gain and food consumption).

There is evidence of increased quantitative susceptibility for male pups in both 2-generation reproductive studies. In one study, there are no toxicological effects in the dams; whereas, for the pups, reduced bodyweights are observed at the highest dose level, starting on day 14 of lactation. This contributes to an overall decrease in bodyweight gain during the entire lactation period. The reproductive effects in males appear in the F_1 generation in the form of increased incidence and severity of testicular tubular atrophy (see developmental/reproductive section). These data are considered to be evidence of increased quantitative susceptibility for male pups (increased incidence of testicular tubular atrophy at 1.8 mg/kg/day) when compared to the parents (hyaline changes in renal tubules at 61 mg/kg/day; NOAEL is 1.8 mg/kg/day).

In a more recent 2-generation reproduction study, the most sensitive effect was sperm abnormalities at 3 mg/kg/day (the NOAEL is 1.2 mg/kg/day) in the F_1 males. This study also indicates increased susceptibility for the offspring for this effect.

Although there is evidence of increased quantitative susceptibility for male pups in both reproductive studies, NOAELs and LOAELs were established in these studies and the Agency selected the NOAEL for testicular effects in F_1 pups as the basis for risk assessment. The Agency has confidence that the NOAEL selected for risk assessment is protective of the most sensitive effect (testicular) for the most sensitive subgroup (pups) observed in the toxicological database.

3. *Conclusion.* i. In the final rule published in the **Federal Register** of January 5, 2005 (70 FR 708) (FRL–7689–7), EPA had previously determined that the FQPA SF should be retained at 10X for thiamethoxam, based on the following factors: Effects on endocrine organs observed across species; significant decrease in alanine amino transferase levels in companion animal studies and in dog studies; the mode of action of this chemical in insects (interferes with the nicotinic acetylcholine receptors of the insect's nervous system); the transient clinical signs of neurotoxicity in several studies across species; and the suggestive evidence of increased quantitative susceptibility in the rat reproduction study. Since that determination, EPA has received and reviewed a developmental neurotoxicity (DNT) study in rats, and an additional reproduction study in rats. Taking the results of these studies into account, as well as the rest of the data on thiamethoxam, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X (June 23, 2010, 75 FR 35653; FRL–8830–4); (June 22, 2007, 72 FR 34401). That decision is based on the following findings:

a. The toxicity database for thiamethoxam is largely complete, including acceptable/guideline developmental toxicity, 2-generation reproduction, and DNT studies designed to detect adverse effects on the developing organism, which could result from the mechanism that may have produced the decreased alanine amino transferase levels. The available data for thiamethoxam show the potential for immunotoxic effects. In the subchronic dog study, leukopenia (decreased white blood cells) was observed in females only, at the highest dose tested (HDT) of 50 mg/kg/day; the NOAEL for this effect was 34 mg/kg/day. The overall study NOAEL was 9.3 mg/kg/day in females (8.2 mg/kg/day in males) based on hematology and other clinical chemistry findings at the LOAEL of 34 mg/kg/day (32 mg/kg/day in males). In the subchronic mouse study, decreased spleen weights were observed in females at 626 mg/kg/day; the NOAEL for this effect was the next lowest dose of 231 mg/kg/day. The overall study NOAEL was 1.4 mg/kg/day (males) based on increased hepatocyte hypertrophy observed at the LOAEL of 14.3 mg/kg/day. The decreased absolute spleen weights were considered to be treatment related, but were not statistically significant at 626 mg/kg/day or at the HDT of 1,163 mg/kg/day. Since spleen weights were not decreased relative to body weights, the absolute decreases may have been related to the decreases in body weight gain observed at higher doses. Overall, the Agency has a low concern for the potential for immunotoxicity related to these effects for the following reasons: In general, the Agency does not consider alterations in hematology parameters alone to be a significant indication of potential immunotoxicity. In the case of thiamethoxam, high-dose females in the subchronic dog study had slight microcytic anemia as well as leukopenia characterized by reductions in neutrophils, lymphocytes and monocytes; the leukopenia was considered to be related to the anemic response to exposure. Further, endpoints and doses selected for risk assessment are protective of the observed effects on hematology. Spleen weight decreases, while considered treatment-related, were associated with decreases in body weight gain, and were not statistically significant. In addition, spleen weight changes occurred only at very high doses, more than 70 times higher than the doses selected for risk assessment.

In addition to the previous considerations, a 28-day immunotoxicity study in female mice was recently received and has undergone a preliminary review. There were no immunotoxic effects observed at doses exceeding the limit dose of 1,000 mg/kg/day.

b. For the reasons discussed in Unit III.D.2., there is low concern for an increased susceptibility in the young.

c. Although there is evidence of neurotoxicity after acute exposure to thiamethoxam at doses of 500 mg/kg/day including drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength, no evidence of neuropathology was observed. These effects occurred at doses at least 14-fold and 416-fold higher than the doses used for the acute, and chronic risk assessments, respectively; thus, there is low concern for these effects since it is expected that the doses used for regulatory purposes would be protective of the effects noted at much higher doses.

In the developmental neurotoxicity study (DNT), there was no evidence of neurotoxicity in the dams exposed up to 298.7 mg/kg/day; a dose that was associated with decreases in body weight gain and food consumption. In pups exposed to 298.7 mg/kg/day, there

were significant reductions in absolute brain weight and size (i.e., length and width of the cerebellum was less in males on day 12, and there were significant decreases in Level 3–5 measurements in males and in Level 4–5 measurements in females on day 63). However, there is low concern for this increased qualitative susceptibility observed in the DNT study because the doses and endpoints selected for risk assessment are protective of the effects in the offspring. As noted previously, for risk assessment the Agency selected the NOAEL for testicular effects in F_1 pups based on two reproductive toxicity studies to be protective of all sensitive subpopulations.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed using tolerance-level and/or anticipated residues that are based on reliable field trial data observed in the thiamethoxam field trials. Although there is available information indicating that thiamethoxam and clothianidin have different toxicological effects in mammals and should be assessed separately, the residues of each have been combined in these assessments to ensure that the estimated exposures of thiamethoxam do not underestimate actual potential thiamethoxam exposures. An assumption of 100 percent crop treated (PCT) was made for all foods evaluated in the assessments. For the acute and chronic assessments, the EDWCs of 131.77 parts per billion (ppb) and 11.3 ppb, respectively, were used to estimate exposure via drinking water. Compared to the results from small scale prospective ground water studies where the maximum observed residue levels from any monitoring well were 1.0 ppb for thiamethoxam and 0.73 ppb for clothianidin, the modeled estimates are protective of what actual exposures are likely to be. EPA used similarly conservative (protective) assumptions to assess postapplication exposure to children and adults including incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by thiamethoxam.

ii. In the final rule published in the **Federal Register** of February 6, 2008 (73 FR 6851) (FRL–8346–9), EPA had previously determined that the FQPA SF for clothianidin should be retained at 10X because EPA had required the submission of a developmental immunotoxicity study to address the combination of evidence of decreased absolute and adjusted organ weights of the thymus and spleen in multiple studies in the clothianidin database, and evidence showing that juvenile rats in the 2-generation reproduction study appear to be more susceptible to these potential immunotoxic effects. In the absence of a developmental immunotoxicity study, EPA concluded that there was sufficient uncertainty regarding immunotoxic effects in the young that the 10X FQPA factor should be retained as a database uncertainty factor.

Since that determination, EPA has received and reviewed an acceptable/guideline developmental immunotoxicity study, which demonstrated no treatment-related effects. Taking the results of this study into account, as well as the rest of the data on clothianidin, EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF for clothianidin were reduced to 1X (February 11, 2011, 76 FR 7712) (FRL–8858–3). That decision is based on the following findings:

a. The toxicity database for clothianidin is complete. As noted, the prior data gap concerning developmental immunotoxicity has been addressed by the submission of an acceptable developmental immunotoxicity study.

b. A rat developmental neurotoxicity study is available and shows evidence of increased quantitative susceptibility of offspring. However, EPA considers the degree of concern for the developmental neurotoxicity study to be low for prenatal and postnatal toxicity because the NOAEL and LOAEL were well characterized, and the doses and endpoints selected for risk assessment are protective of the observed susceptibility; therefore, there are no residual concerns regarding effects in the young.

c. While the rat multi-generation reproduction study showed evidence of increased quantitative susceptibility of offspring compared to adults, the degree of concern is low because the study NOAEL and LOAEL have been selected for risk assessment purposes for relevant exposure routes and durations. In addition, the potential immunotoxic effects observed in the study have been further characterized with the submission of a developmental immunotoxicity study that showed no evidence of susceptibility. As a result, there are no concerns or residual uncertainties for prenatal and postnatal toxicity after establishing toxicity endpoints and traditional UFs to be used in the risk assessment for clothianidin.

d. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on assumptions that were judged to be highly conservative and health-protective for all durations and population subgroups, including tolerance-level residues, adjustment factors from metabolite data, empirical processing factors, and 100 PCT for all commodities. Additionally, EPA made conservative (protective) assumptions in the ground water and surface water modeling used to assess exposure to clothianidin in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children and adults as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by clothianidin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to thiamethoxam will occupy 9.5% of the aPAD for All infants (<1 year), the population group receiving the greatest exposure. Acute dietary exposure from food and water to clothianidin is estimated to occupy 23% of the aPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* In examining chronic aggregate risk, EPA has assumed that the only pathway of exposure relevant to that time frame is dietary exposure. Using this assumption for chronic exposure, EPA has concluded that chronic exposure to thiamethoxam from food and water will utilize 43% of the cPAD for Children 1 to 2 years old, the population group receiving the greatest exposure. Chronic exposure to clothianidin from food and water will utilize 19% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water

(considered to be a background exposure level). Thiamethoxam is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to thiamethoxam.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures for thiamethoxam result in aggregate MOEs of: 370 for the general U.S. population; 490 for all infants; 440 for children 1 to 2 years; 450 for children 3 to 5 years; 370 for children 6 to 12 years; 380 for youth 13 to 19 years, adults 20 to 49 years, adults 50+ years, and females 13 to 49 years. Because EPA's level of concern for thiamethoxam is a MOE of 100 or below, these MOEs are not of concern.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures for clothianidin result in aggregate MOEs of: 1,200 for the general U.S. population; 480 for all infants (<1 year); 370 for children 1 to 2 years; 490 for children 3 to 5 years; 1,000 for children 6 to 12 years; 1,400 for youth 13 to 19 years, adults 20–49 years, and females 13 to 49 years; and 1,300 for adults 50+ years. Because EPA's level of concern for clothianidin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Thiamethoxam is currently registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to thiamethoxam.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures for thiamethoxam result in aggregate MOEs of: 370 for the general U.S. population; 540 for all infants (<1 year); 470 for children 1 to 2 years; 490 for children 3 to 5 years; 370 for children 6 to 12 years; 380 for youth 13 to 19 years, adults 20 to 49 years, adults 50+ years, and females 13 to 49 years. Because EPA's level of concern for thiamethoxam is a MOE of 100 or below, these MOEs are not of concern.

Using the exposure assumptions described in this unit for intermediate exposures, EPA has concluded the combined intermediate food, water, and residential exposures for clothianidin result in aggregate MOEs of: 1,200 for the general U.S. population; 480 for all infants (<1 year); 370 for children 1 to 2 years; 490 for children 3 to 5 years; 1,000 for children 6 to 12 years; 1,400 for youth 13 to 19 years, adults 20 to 49 years, and females 13 to 49 years; and 1,300 for adults 50+ years. Because EPA's level of concern for clothianidin is a MOE of 100 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* The Agency has classified thiamethoxam as not likely to be a human carcinogen based on convincing evidence that a non-genotoxic mode of action for liver tumors was established in the mouse and that the carcinogenic effects are a result of a mode of action dependent on sufficient amounts of a hepatotoxic metabolite produced persistently. Therefore, thiamethoxam is not expected to pose a cancer risk. Clothianidin has been classified as ''not likely to be a human carcinogen'' and is not expected to pose a cancer risk.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to thiamethoxam or clothianidin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The High Production Liquid Chromatography (HPLC) Method AG–675 with ultraviolet (UV) or Mass Spectrometry (MS) detection was previously submitted in conjunction with thiamethoxam petitions. Method AG–675 has been determined to be adequate for enforcing the tolerance expression for residues of thiamethoxam and CGA–322704 in crop and livestock commodities. Syngenta Crop Protection, Inc., has submitted a revised Method AG–675, i.e., Method GRM.009.04A. The full extraction steps for plant and livestock commodities, including the microwave extraction step for liver, have been incorporated. The limits of quantitation (LOQs) of Method GRM.009.04A have been established at 0.01 ppm each for residues of thiamethoxam, CGA–322704 and CGA–265307. Method validation data are available for Method GRM.009.04A.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

EPA is increasing the barley grain tolerance to 0.4 ppm in order to harmonize with the Codex MRL of 0.4 ppm. The MRL expressions continue to remain different, as the Codex MRL is for the parent compound only.

C. Revisions to Petitioned-For Tolerances

Although the petitioner sought tolerances for many of the commodities in Crop Groups 15 and 16, the petitioner did not request crop group tolerances. EPA has determined that a tolerance for either Crop Group 15 or Crop Group 16 commodities is not appropriate except for Crop Group 15 grains (except barley), because the use pattern is not the same for all Crop Group 15 commodities. Specifically, there is a foliar use on barley and there are much higher tolerances for barley hay and straw associated with this foliar use. It is for similar reasons that a Crop Group 16 tolerance would not be appropriate.

In addition, there are also significant differences in the tolerances for the different cereal forages, i.e., wheat forage at 0.5 ppm, corn forage at 0.10 ppm, and sorghum forage at 0.02 ppm. Therefore, tolerances for each individual commodity have been established by translating residue data from the most appropriate representative commodity, except for grains which all have the same tolerance (excluding barley). Tolerances are not required for triticale and wild rice because these commodities are covered by the wheat and rice tolerances, as

specified in 40 CFR 180.1. Tolerances are also not needed for teosinte forage and stover as these are not considered significant livestock feed items and are not consumed by humans.

V. Conclusion

Therefore, tolerances are established for residues of thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-*N*-nitro-4*H*-1,3,5-oxadiazin-4-imine and its metabolite, *N*-[(2-chloro-thiazol-5-yl)methyl]-*N′*-methyl-*N″*-nitro-guanidine, in or on barley, grain at 0.4 ppm; buckwheat, forage at 0.50 ppm; buckwheat, hay at 0.02 ppm; buckwheat, straw at 0.02 ppm; grain, cereal, group 15, except barley at 0.02 ppm; oat, forage at 0.50 ppm, oat, hay at 0.02 ppm; oat, straw at 0.02 ppm; millet, pearl, forage at 0.02 ppm; millet, pearl, stover at 0.02 ppm; millet, proso, forage at 0.02 ppm; millet, proso, stover at 0.02 ppm; millet, proso, straw at 0.02 ppm; rye, forage at 0.50 ppm; rye, straw at 0.02 ppm. Tolerances are revoked for corn, field, grain; corn, pop, grain; rice, grain; sorghum, grain; wheat, grain. These tolerances are no longer needed, since residues on these commodities will be covered by the crop group 15 tolerances being established in this rule.

In addition, administrative corrections are being made to the existing tolerances for grain, aspirated fractions and soybean, hulls, as follows: The tolerance for grain, aspirated fractions at 0.08 ppm is being corrected to grain, aspirated fractions at 2.0 ppm; the tolerance for soybean, hulls at 2.0 ppm is being corrected to soybean, hulls at 0.08 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2012.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.565 paragraph (a) is revised to read as follows:

§ 180.565 Thiamethoxam; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide thiamethoxam, including its metabolites and degradates, in or on the following commodities. Compliance with the tolerance levels specified below is to be determined by measuring only thiamethoxam 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine and its metabolite CGA–322704 N-[(2-chloro-thiazol-5-yl)methyl]-N′-methyl-N″-nitro-guanidine, calculated as the stoichiometric equivalent of thiamethoxam, in or on the following commodities:

Commodity	Parts per million
Alfalfa, forage	0.05
Alfalfa, hay	0.12
Almond, hulls	1.2
Artichoke, globe	0.45
Avocado	0.40
Barley, grain	0.4
Barley, hay	0.40
Barley, straw	0.40
Bean, succulent	0.02
Berry, low growing, subgroup 13–07G, except cranberry	0.30
Borage, seed	0.02
Brassica, head and stem, subgroup 5–A	4.5
Brassica, leafy greens, subgroup 5–B	3.0
Buckwheat, forage	0.50
Buckwheat, hay	0.02
Buckwheat, straw	0.02
Bushberry subgroup 13–07B, except lingonberry and blueberry, lowbush	0.20
Canistel	0.40
Canola, seed	0.02
Cattle, meat	0.02

Commodity	Parts per million
Cattle, meat byproducts	0.04
Citrus, dried pulp	0.60
Coffee, bean, green [1]	0.05
Corn, field, forage	0.10
Corn, field, stover	0.05
Corn, pop, forage	0.10
Corn, pop, stover	0.05
Corn, sweet, forage	0.10
Corn, sweet, kernel plus cob with husks removed	0.02
Corn, sweet, stover	0.05
Cotton, gin byproducts	1.5
Cotton, undelinted seed	0.10
Crambe, seed	0.02
Cranberry	0.02
Flax, seed	0.02
Food commodities and feed commodities (other than those covered by a higher tolerance as a result of use on growing crops) in food/feed handling establishments	0.02
Fruit, citrus, group 10	0.40
Fruit, pome, group 11	0.2
Fruit, small, vine climbing, subgroup 13–07F, except fuzzy kiwifruit	0.20
Fruit, stone, group 12	0.5
Goat, meat	0.02
Goat, meat byproducts	0.04
Grain, aspirated fractions	2.0
Grain, cereal, group 15, except barley	0.02
Grape, raisin	0.30
Hog, meat	0.02
Hog, meat byproducts	0.02
Hop, dried cones	0.10
Horse, meat	0.02
Horse, meat byproducts	0.04
Mango	0.40
Milk	0.02
Millet, pearl, forage	0.02
Millet, pearl, stover	0.02
Millet, proso, forage	0.02
Millet, proso, stover	0.02
Millet, proso, straw	0.02
Oat, forage	0.50
Oat, hay	0.02
Oat, straw	0.02
Peanut	0.05
Peanut, hay	0.25
Peanut, meal	0.15
Peppermint, tops	1.5
Pistachio	0.02
Potato	0.25
Radish, tops	0.80
Rapeseed, seed	0.02
Rye, forage	0.50
Rye, straw	0.02
Sapodilla	0.40
Sapote, black	0.40
Sapote, mamey	0.40
Sheep, meat	0.02
Sheep, meat byproducts	0.04
Sorghum, forage	0.02
Sorghum, grain, stover	0.02
Soybean, hulls	0.08
Spearmint, tops	1.5
Star apple	0.40
Sunflower	0.02
Tomato, paste	0.80
Vegetable, cucurbit, group 9	0.2
Vegetable, fruiting, group 8	0.25
Vegetable, leafy, except brassica, group 4	4.0
Vegetable, legume, group 6	0.02
Vegetable, root, subgroup 1A	0.05
Vegetable, tuberous and corm, except potato, subgroup 1D	0.02
Wheat, forage	0.50
Wheat, hay	0.02
Wheat, straw	0.02

[1] There are no U.S. registrations as of September 17, 2003.

* * * * *

[FR Doc. 2012–4983 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0524; FRL–9337–9]

Trinexapac-ethyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of trinexapac-ethyl in or on multiple commodities which are identified and discussed later in this document. Syngenta Crop Protection, Inc. requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective March 2, 2012. Objections and requests for hearings must be received on or before May 1, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0524. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Bethany Benbow, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8072; email address: *benbow.bethany@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2010–0524 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before May 1, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA–HQ–OPP–2010–0524, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of August 4, 2010, (75 FR 46925) (FRL–8834–9), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of two pesticide petitions (PP 0F7719 and 0F7720) by Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. Petition 0F7719 requested that 40 CFR part 180 be amended by establishing tolerances for residues of the plant growth regulator, trinexapac-ethyl and its primary metabolite CGA–179500, in or on grass, forage, grown for seed at 1.60 parts per million (ppm); grass, hay, grown for seed at 3.5 ppm; grass, seed screenings, grown for seed at 45.0 ppm; grass, straw, grown for seed at 12 ppm; cattle (fat, meat, meat byproducts) at 0.05 ppm; goat (fat, meat, meat byproducts) at 0.05 ppm; horse (fat, meat, meat byproducts) at 0.05 ppm and sheep (fat, meat, meat byproducts) at 0.05 ppm. Petition 0F7720 requested that 40 CFR part 180 be amended by establishing tolerances for residues in or on barley, grain at 1.6 ppm; barley, hay at 0.7 ppm; barley, straw at 0.35 ppm; cattle, kidney at 0.05 ppm; hog, kidney at 0.05 ppm; oat, forage at 1.0 ppm; oat, grain at 4.1 ppm; oat, hay at 1.3 ppm; oat, straw at 0.7 ppm; sugarcane, cane at 0.8 ppm; wheat, forage at 1.0 ppm; wheat, grain at 4.1 ppm; wheat, hay at 1.3 ppm and wheat, straw at 0.7 ppm.

That notice referenced a summary of the petitions prepared by Syngenta Crop Protection, Inc., the registrant, which is available in the docket, *http://www.regulations.gov*.

Based upon review of the data supporting the petition, EPA has revised most of the proposed tolerance levels, added tolerances for hog fat and meat, and deleted the proposed tolerance for cattle kidney. The reasons for these changes are explained in Unit IV.D.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. * * *''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for trinexapac-ethyl including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with trinexapac-ethyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The acute toxicity of trinexapac-ethyl is low via the oral, eye, dermal, or inhalation routes of exposure, and it is not a dermal sensitizer.

In adult animals (rats, rabbits, mice, dogs), no systemic adverse effects are seen below the limit dose following subchronic or chronic oral exposure with the exception of dogs. The 90-day subchronic dog study showed decreased body weight gain and food consumption, diffuse thymic atrophy, and changes in the epithelial cells of the renal tubules at 516/582 milligrams/kilogram/day (mg/kg/day) (males/females). Following chronic exposure, dose-related neuropathology of the brain was seen at ≥365/357 mg/kg/day in male and female dogs respectively. The lesions remained confined to the supporting cells in the central nervous system and did not progress to more advanced or more extensive damage of the nervous tissue. They were not associated with other neuropathological findings or overt neurological signs so their biological significance is unknown. Similar lesions were not observed in the rat or mouse following acute, subchronic or chronic dietary exposure, and there was no other evidence in any other species tested to indicate a neurotoxicity potential. Furthermore, the brain lesions observed in the chronic dog study were not observed in the sub-chronic dog study up to 890 mg/kg/day and are thus not likely to develop from a short-term exposure.

Evidence of increased qualitative and quantitative susceptibility to offspring exists at or above the limit dose of the developmental and reproduction studies. Developmental toxicity was observed in the rat (increased incidence of asymmetrical sternebrae) and rabbit (decreased number of live fetuses/litter and increased post-implantation loss) at the highest dose tested, with no evidence of maternal toxicity observed in either species. In the rat reproduction study, reproductive toxicity was not observed, but decreased pup survival

and decreased pup body weight/body-weight gain during lactation were observed above the limit dose with only reduced body weight and food consumption observed in the parental animals (>1,200 mg/kg/day).

Trinexapac-ethyl is classified as ''Not likely to be carcinogenic to humans.'' The combined chronic toxicity/carcinogenicity study in the rat did not demonstrate an increase in any tumor type that would be relevant to humans. In the mouse, there was no evidence of carcinogenicity. The mutagenicity database is also complete, with no evidence of mutagenicity.

Specific information on the studies received and the nature of the adverse effects caused by trinexapac-ethyl as well as the no-observed-adverse-effect-level and the lowest-observed-adverse-effect-level from the toxicity studies can be found at *http://www.regulations.gov* in the document, ''Trinexapac-ethyl: Human Health Risk Assessment for the Section 3 Registration Action on Cereal Grains, Sugarcane, and Grasses Grown for Seed'' p. 48 in docket ID number EPA–HQ–OPP–2010–0524.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern (LOC) to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors (U/SF) are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for trinexapac-ethyl used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR TRINEXAPAC-ETHYL FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age).	NOAEL = 60 mg/kg/day. UF_A = 10×. UF_H = 10×. FQPA SF = 1×.	Acute RfD = 0.6 mg/kg/day. aPAD = 0.6 mg/kg/day.	Developmental rabbit study. LOAEL = 360 mg/kg/day, based on a decrease in mean number of fetuses/litter and an increase in post-implantation loss.
Acute dietary (General population including infants and children).	No appropriate endpoint for the general population including infants and children		
Chronic dietary (All populations)	NOAEL = 31.6 mg/kg/day. UF_A = 10×. UF_H = 10×. FQPA SF = 1×.	Chronic RfD = 0.32 mg/kg/day. cPAD = 0.32 mg/kg/day.	Chronic oral toxicity study—dog. LOAEL = 357 mg/kg/day, based on elevated serum cholesterol values in females, mucoid feces in females and bloody feces in both sexes, and minimal, focal vacuolation of the dorsal medial hippocampus and/or lateral midbrain in both sexes.
Incidental oral (short and intermediate-term).	No appropriate endpoint for the incidental oral scenario for children		
Dermal & Inhalation (short- and intermediate-term-adults only).	Dermal (or oral) study NOAEL = 60 mg/kg/day (dermal absorption rate = 77.5%. UF_A = 10×. UF_H = 10×. FQPA SF = 1×.	Residential ..... LOC for MOE = 100. Occupational LOC for MOE = 100.	Developmental rabbit study. LOAEL = 360 mg/kg, based on a decrease in mean number of fetuses/litter and an increase in post-implantation loss.
Cancer (Oral, dermal, inhalation)	Classification: ''Not likely to be Carcinogenic to Humans''		

UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = Food Quality Protection Act Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern. Mg/kg/day—milligrams per day.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to trinexapac-ethyl, EPA considered exposure under the petitioned-for tolerances. There are no tolerances currently established for trinexapac-ethyl. EPA assessed dietary exposures from trinexapac-ethyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern

occurring as a result of a 1-day or single exposure. In estimating acute dietary exposure, EPA used food consumption information from the U.S. Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed that residues are present in all commodities at the tolerance level and that 100% of commodities with tolerances are treated with trinexapac-ethyl. Dietary Exposure Evaluation Model (DEEM™) 7.81 default concentration factors were used to estimate residues of trinexapac-ethyl in processed commodities. The acute dietary exposure was only estimated for females 13 to 49 years old based on an *in utero* effect (decrease in mean number of fetuses/litter and an increase in post-implantation loss) identified in the rabbit developmental study. An endpoint of concern was not identified for the general U.S. population; however, the acute dietary assessment is protective of women that may become pregnant.

ii. *Chronic exposure.* In estimating chronic dietary exposure, EPA used food consumption information from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA assumed that residues are present in all commodities at the tolerance level and that 100% of commodities with tolerances are treated with trinexapac-ethyl. DEEM™ 7.81 default concentration factors were used to estimate residues of trinexapac-ethyl in processed commodities.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that trinexapac-ethyl does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk was not conducted.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for trinexapac-ethyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of trinexapac-ethyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of trinexapac-ethyl for acute exposures are estimated to be 12.61 parts per billion (ppb) for surface water and 0.009 ppb for ground water. Chronic exposures for non-cancer assessments are estimated to be 1.56 ppb for surface water and 0.009 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration of value of 12.61 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 1.56 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Trinexapac-ethyl is currently registered for the following uses that could result in residential exposures: Residential lawns, athletic fields, parks, and golf courses. EPA assessed residential exposure with the assumption that homeowner handlers wear shorts, short-sleeved shirts, socks, and shoes, and that they complete all tasks associated with the use of a pesticide product including mixing/loading, if needed, as well as the application. Residential handler exposure scenarios for both dermal and inhalation are considered to be short-term only, due to the infrequent use patterns associated with homeowner products.

EPA uses the term ''post-application'' to describe exposure to individuals that occur as a result of being in an environment that has been previously treated with a pesticide. Trinexapac-ethyl can be used in many areas that can be frequented by the general population including residential areas (e.g., home lawns, recreational turf). As a result, individuals can be exposed by entering these areas if they have been previously treated. Therefore, short-term dermal post-application exposures and risks were also assessed for trinexapac-ethyl. There is the potential for incidental oral exposure; however, since there is no toxicological endpoint of concern for that route, a quantitative assessment was not conducted. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf*.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found trinexapac-ethyl to share a common mechanism of toxicity with any other substances, and trinexapac-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that trinexapac-ethyl does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* Evidence of increased susceptibility to offspring exists at or above the limit dose of the developmental and reproduction studies. Developmental toxicity was observed in the rat (increased incidence of asymmetrical sternebrae) and rabbit (decreased number of live fetuses/litter and increased post-implantation loss) at the highest dose tested, with no evidence of maternal toxicity observed in either species. In the rat reproduction study, reproductive toxicity was not observed, but decreased pup survival and decreased pup body weight/body-weight gain during lactation were observed above the limit dose with only reduced body weight and food consumption observed in the parental animals (>1,200 mg/kg/day).

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF

were reduced to 1×. That decision is based on the following findings:

i. The toxicology database for trinexapac-ethyl is largely complete, with the exception of a subchronic neurotoxicity study, which is a new data requirement under 40 CFR part 158 for registration of a pesticide (food and non-food uses OPPTS 870.6200b). Though dose-related neuropathology of the brain was observed in the dog, EPA has concluded that there is no need for a developmental neurotoxicity (DNT) study or additional UFs to account for neurotoxicity for the following reasons:

• These effects in the dog study were observed only at high doses (>357 mg/kg/day) and with chronic exposure, and no associated neurological signs or other neuropathology were observed. Furthermore, the lesions remained confined to the supporting cells in the central nervous system (CNS) and did not progress to more advanced or more extensive damage of the nervous tissue. There are clear NOAELs/LOAELs for this effect; in which the NOAEL dose is 10-fold lower than the LOAEL dose at which neuropathology is observed, and is therefore sufficiently protective. Furthermore, similar lesions were not observed in the rat or mouse following subchronic or chronic dietary exposure, and there was no other evidence in any species tested to indicate a neurotoxicity potential.

• Results of the acute neurotoxicity study show no indications of neurotoxicy at the highest dose.

Although subchronic inhalation data on trinexapac-ethyl are not available and an oral study was selected for inhalation risk assessment, the selected points of departure are considered adequately protective for all exposed populations. Therefore, an additional 10x database UF was not retained for lack of inhalation toxicity data and these data are not being required.

ii. Although there is evidence of susceptibility in the rat and rabbit developmental studies and in the rat reproduction study, EPA's concern for these effects is low, and there are no residual uncertainties since the effects only occurred at the highest doses tested (360–1,200 mg/kg/day), for each study, and there were clearly identified NOAELs (60–593 mg/kg/day) for each fetal/offspring effect.

iii. There are no residual uncertainties in the exposure database. Because the acute and chronic dietary exposure estimates were based on several conservative assumptions (100% of crops treated with residues present at tolerance levels, default processing factors and screening level drinking water estimates), EPA is confident that the dietary exposure assessments do not underestimate risk to the general U.S. population and various population subgroups. Similarly, EPA does not believe that the non-dietary residential exposures are underestimated because they are based on the conservative assumptions of EPA's Draft Standard Operating Procedures (SOPs) for Residential Exposure Assessments (December 1997), and updates contained in the Science Advisory Council Policy 12 (February 2001) as well as the uses specified in the proposed labels.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Acute aggregate risk takes into account exposure to residues in food and drinking water alone. Therefore, acute aggregate risk is equivalent to the acute dietary risk as discussed in Unit III.C.1.i. All risk estimates are below EPA's level of concern. The acute dietary exposure estimate for females 13 to 49 years old will only utilize 2% of the aPAD, which is well below the Agency's level of concern (100% of the aPAD).

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to trinexapac-ethyl from food and water will utilize 6% of the cPAD for children 1 to 2 years old, the population group receiving the greatest exposure. Based on the residential use patterns for trinexapac-ethyl, chronic residential exposure to residues is not expected.

3. *Short- and intermediate-term risk.* Since the short- and intermediate-term toxicological endpoints for trinexapac-ethyl are the same for each route of exposure, only short-term exposures were assessed. Trinexapac-ethyl is currently registered for uses that could result in short- and intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water (considered to be a background exposure level) with adult post-application dermal exposure estimates for trinexapac-ethyl.

Using the exposure assumptions described in this unit, EPA has concluded the combined food, water, and adult post-application dermal exposures result in aggregate MOEs of 761 for liquid products and 601 for granular products. Because EPA's level of concern for trinexapac-ethyl is a MOE of 100 or below, these MOEs are not of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, trinexapac-ethyl is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to trinexapac-ethyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Method GRM020.01A, which utilizes high performance liquid chromatography with triple-quadrupole mass spectrometry (LC–MS/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

There are no established or proposed Codex, Canadian, or Mexican MRLs for trinexapac-ethyl in or on any food or feed crops.

C. Response to Comments

An anonymous citizen objected to the presence of any pesticide residues on food. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, the existing legal framework provided by section 408 of FFDCA contemplates that tolerances greater than zero may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

D. Revisions to Petitioned-For Tolerances

Many of the proposed tolerances are different from the tolerances being set by EPA. EPA is setting different levels than were proposed based on EPA's analysis of the field trial data using the Organization for Economic Cooperation and Development tolerance calculation procedures. Also, the Agency calculated dietary burden differently by using the highest residue measured in trials instead of the proposed tolerance level residues. Table 2.2.3, ''Tolerance Summary for Trinexapac-ethyl'' summarizes these differences on page 8 of the document, ''Trinexapac-ethyl: Human Health Risk Assessment for the Section 3 Registration Action on Cereal Grains, Sugarcane, and Grasses Grown for Seed'' which is located in docket ID number EPA–HQ–OPP–2010–0524.

V. Conclusion

Therefore, tolerances are established for residues of trinexapac-ethyl, including its metabolites and degradates, as set forth in the regulatory text. Compliance with the tolerance levels is to be determined by measuring both trinexapac-ethyl, ethyl 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylate and the associated metabolite trinexpac, 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylic acid, calculated as the stoichiometric equivalent of trinexapac-ethyl.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to petitions submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 16, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.662 is added to subpart C to read as follows:

§ 180.662 Trinexapac-ethyl; tolerances for residues.

(a) *General.* Tolerances are established for residues of the plant growth inhibitor, trinexapac-ethyl, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring both trinexapac-ethyl, ethyl 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylate and the associated metabolite, trinexpac, 4-(cyclopropylhydroxymethylene)-3,5-dioxocyclohexanecarboxylic acid, calculated as the stoichiometric equivalent of trinexapac-ethyl, in or on the commodity.

Commodity	Parts per million
Barley, grain	2.0
Barley, hay	0.8
Barley, straw	0.4
Cattle, fat	0.02
Cattle, meat	0.02
Cattle, meat byproducts	0.04
Goat, fat	0.02

Commodity	Parts per million
Goat, meat	0.02
Goat, meat byproducts	0.04
Grass, forage	1.5
Grass, hay	4.0
Grass, seed screenings	40.0
Grass, straw	10.0
Hog, fat	0.02
Hog, kidney	0.03
Hog, meat	0.02
Horse, fat	0.02
Horse, meat	0.02
Horse, meat byproducts	0.04
Oat, forage	1.0
Oat, grain	4.0
Oat, hay	1.5
Oat, straw	0.9
Sheep, fat	0.02
Sheep, meat	0.02
Sheep, meat byproducts	0.04
Sugarcane, cane	0.8
Wheat, forage	1.5
Wheat, grain	4.0
Wheat, hay	1.5
Wheat, middlings	6.5
Wheat, straw	0.9

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 2012–4984 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1237]

Changes in Flood Elevation Determinations

Correction

In rule document 2012–488 appearing on pages 1887–1889 in the issue of Thursday, January 12, 2012, make the following corrections: In the table appearing on pages 1888–1889, the column titled ''Chief executive officer of community'' is corrected to appear as set forth below.

§ 65.4 [Corrected]

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Delaware:					
Kent	Town of Camden (10–03–0303P).	February 18, 2011; February 25, 2011; *The Delaware State News*.	The Honorable Richard E. Maly, Mayor, Town of Camden, 1783 Friends Way, Camden, DE 19934.	June 27, 2011	100003
Kent	Unincorporated areas of Kent County (10–03–0303P).	February 18, 2011; February 25, 2011; *The Delaware State News*.	The Honorable P. Brooks Banta, President, Kent County Levy Court, Administrative Complex, 555 South Bay Road, Room 243, Dover, DE 19901.	June 27, 2011	100001
Puerto Rico: Puerto Rico.	Commonwealth of Puerto Rico (10–02–1752P).	October 13, 2011; October 20, 2011; *El Nuevo Dia*.	The Honorable Rubén Flores-Marzán, Chairperson, Puerto Rico Planning Board, Roberto Sanchez Vilella Governmental Center, North Building, 16th Floor, De Diego Avenue International Baldorioty de Castro Avenue, San Juan, PR 00940.	October 6, 2011	720000
Texas:					
Bexar	City of San Antonio (11–06–0604P).	November 4, 2011; November 11, 2011; *The San Antonio Express-News*.	The Honorable Julián Castro, Mayor, City of San Antonio, 100 Military Plaza, San Antonio, TX 78205.	March 12, 2012	480045
Bexar	Unincorporated areas of Bexar County (11–06–3419P).	November 16, 2011; November 23, 2011; *The Daily Commercial Recorder*.	The Honorable Nelson W. Wolff, Bexar County Judge, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	March 22, 2012	480035
Denton	Town of Flower Mound (11–06–2301P).	October 25, 2011; November 1, 2011; *The Denton Record-Chronicle*.	The Honorable Melissa D. Northern, Mayor, Town of Flower Mound, 2121 Cross Timbers Road, Flower Mound, TX 75028.	February 29, 2012	480777
Denton	Unincorporated areas of Denton County (11–06–1910P).	October 28, 2011; November 4, 2011; *The Denton Record-Chronicle*.	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	October 21, 2011	480774
Grimes	Unincorporated areas of Grimes County (11–06–2364P).	November 9, 2011; November 16, 2011; *The Navasota Examiner*.	The Honorable Betty Shiflett, Grimes County Judge, Grimes County Courthouse, 100 Main Street, Anderson, TX 77830.	May 2, 2012	481173

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Montgomery	Unincorporated areas of Montgomery County (11–06–3114P).	October 26, 2011; November 2, 2011; *The Conroe Courier*.	The Honorable Alan Sadler, Montgomery County Judge, 501 North Thompson Street, Suite 401, Conroe, TX 77301.	October 19, 2011	480483
Tarrant	City of Crowley (11–06–1037P).	November 3, 2011; November 10, 2011; *The Crowley Star*.	The Honorable Billy P. Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	March 9, 2012	480591
Tarrant	City of Fort Worth (11–06–2373P).	November 1, 2011; November 8, 2011; *The Fort Worth Star-Telegram*.	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	March 7, 2012	480596
Victoria	City of Victoria (11–06–1656P).	November 3, 2011; November 10, 2011; *The Victoria Advocate*.	The Honorable Will Armstrong, Mayor, City of Victoria, 105 West Juan Linn Street, Victoria, TX 77901.	March 9, 2012	480638
Virginia: Henrico	Unincorporated areas of Henrico County (10–03–0514P).	December 14, 2010; December 21, 2010; *The Richmond Times-Dispatch*.	Mr. Virgil R. Hazelett, Henrico County Manager, 4301 East Parham Road, Henrico, VA 23228.	April 20, 2011	510077

[FR Doc. C1–2012–488 Filed 3–1–12; 8:45 am]

BILLING CODE 1505–01–D

Proposed Rules

Federal Register
Vol. 77, No. 42
Friday, March 2, 2012

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–11–0085; FV11–930–3 PR]

Tart Cherries Grown in the States of Michigan, et al.; Final Free and Restricted Percentages for the 2011–12 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on the establishment of final free and restricted percentages for the 2011–12 crop year under the marketing order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (order). The order is administered locally by the Cherry Industry Administrative Board (Board). This action would establish the proportion of tart cherries from the 2011 crop which may be handled in commercial outlets at 88 percent free and 12 percent restricted. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Comments must be received by April 2, 2012.

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

FOR FURTHER INFORMATION CONTACT: Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Manager, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Programs, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement and Order No. 930, both as amended (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, final free and restricted percentages may be established for tart cherries handled during the crop year. This proposed rule would establish final free and restricted percentages for tart cherries for the 2011–12 crop year, beginning July 1, 2011, through June 30, 2012.

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

This rule invites comments on the establishment of final free and restricted percentages for the 2011–12 crop year. This action would establish the proportion of tart cherries from the 2011 crop which may be handled in commercial outlets at 88 percent free and 12 percent restricted. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The action was recommended by the Board at a meeting on September 15, 2011.

Section 930.51(a) of the order provides authority to regulate volume by designating free and restricted percentages for any tart cherries acquired by handlers in a given crop year. Section 930.50 prescribes procedures for computing an optimum supply based on sales history and for calculating these free and restricted percentages. Free percentage volume may be shipped to any market, while restricted percentage volume must be held by handlers in a primary or secondary reserve, or be diverted or used for exempt purposes as prescribed in §§ 930.159 and 930.162 of the regulations. These activities include, in part, the development of new products, sales into new markets, the development of export markets, and charitable contributions.

Under § 930.52, only those districts with an annual average production of at least six million pounds are subject to regulation and any district producing a crop which is less than 50 percent of its annual average is exempt. The regulated districts for the 2011–2012 crop year would be: District 1—Northern Michigan; District 2—Central Michigan; District 3—Southern Michigan; District

4—New York; District 7—Utah; and District 8—Washington. Districts 5, 6, and 9 (Oregon, Pennsylvania, and Wisconsin, respectively) would not be regulated for the 2011–12 season.

Demand for tart cherries and tart cherry products tends to be relatively stable from year to year. Conversely, annual tart cherry production can vary greatly. In addition, tart cherries are processed and can be stored and carried over from crop year to crop year, further impacting supply. As a result, supply and demand for tart cherries are rarely in balance.

Because demand for tart cherries is inelastic, total sales volume is not very responsive to changes in price. However, prices are very sensitive to changes in supply. As such, an oversupply of cherries would have a sharp negative effect on prices, driving down grower returns. The Board, aware of this economic relationship, focuses on using the volume control provisions in the order to balance supply and demand to stabilize industry returns.

Pursuant to § 930.50 of the order, the Board meets on or about July 1 to review sales data, inventory data, current crop forecasts and market conditions for the upcoming season and, if necessary, to recommend preliminary free and restricted percentages if anticipated supply would exceed demand. After harvest is complete, but no later than September 15, the Board meets again to update their calculations using actual production data, consider any necessary adjustments to the preliminary percentages, and determine if final free and restricted percentages should be recommended to the Secretary.

To assist in this process, the Board uses an optimum supply formula (OSF), a series of mathematical calculations using sales history, inventory, and production data to determine whether there is a surplus, and if so, how much volume should be restricted to maintain optimum supply. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year. Optimum supply is defined as the average free sales of the prior three years plus desirable carry-out inventory. Desirable carry-out is the amount of fruit needed by the industry to be carried into the succeeding crop year to meet marketing demand until the new crop is available. Desirable carry-out is set by the Board after considering market circumstances and needs. This figure can range from zero to a maximum of 20 million pounds.

To determine whether the industry would be in an oversupply situation for the coming year, the Board compares the optimum supply figure and the total anticipated supply for the coming year. Anticipated supply includes any inventory available at the beginning of the season (carry-in) and the current year's estimated production. The carry-in figure is subtracted from the optimum supply to determine the volume of cherries that would need to be produced in the current year to provide what is needed to meet the optimum supply. If estimated production is less than the optimum supply minus carry-in, the Board is required to establish a free percentage of 100 percent and a restricted percentage of zero. If production is greater than the optimum supply minus carry-in, the difference is considered surplus. To calculate the restricted percentage, this surplus tonnage is divided by the sum of production in the regulated districts.

The Board met on June 23, 2011, and computed an optimum supply of 174 million pounds for the 2011–12 crop year, using the free sales for the three previous seasons and setting the desirable carry-out at zero. The Board then subtracted the estimated carry-in of 57 million pounds from the optimum supply to calculate the production needed from the 2011–12 crop to meet optimum supply. This number, 117 million pounds, was subtracted from USDA's estimated 2011–12 production of 266 million pounds to calculate a surplus of 149 million pounds of tart cherries. The surplus was then divided by the expected production in the regulated districts (253 million pounds) to reach a preliminary restricted percentage of 59 percent for the 2011–12 crop year.

In discussing the results of the OSF calculations, members were in agreement that a restriction was necessary in order to avoid oversupplying the market. However, there was discussion that a 59 percent restriction may be too restrictive considering current market conditions. Board members recognized that the previous season, inventory had been tight, requiring two releases from reserves to meet sales needs. Further, it was stated that exports would likely remain strong in the coming season due to poor production in Europe. Consequently, the Board concluded market conditions justified making an economic adjustment, and the Board voted to add 30 million pounds to free supply, reducing the calculated surplus from 149 million pounds to 119 million pounds.

In addition, USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. Accordingly, § 930.50(g) of the order specifies that in years when restricted percentages are established, the Board shall make available tonnage equivalent to an additional 10 percent of the average sales of the prior three years for market expansion (market growth factor). The Board complied with this requirement by adding 17 million pounds (174 million times 10 percent) to the free supply, further reducing the surplus to 102 million pounds. After these two adjustments, the preliminary restricted percentage was recalculated as 40 percent, as outlined in the following table:

	Millions of pounds
Preliminary Calculations:	
(1) Average sales of the prior three years	174
(2) Plus desirable carry-out	0
(3) Optimum supply calculated by the Board	174
(4) Carry-in as of June 23, 2011	57
(5) Adjusted optimum supply (item 3 minus item 4)	117
(6) USDA crop estimate	266
(7) Surplus (item 6 minus item 5)	149
(8) Economic adjustment	30
(9) Market growth factor	17
(10) Adjusted Surplus (item 7 minus items 8 and 9)	102
(11) Crop estimate for regulated districts	253
	Percent
Preliminary Percentages:	
Restricted (item 10 divided by item 11 × 100)	40
Free (100 minus restricted percentage)	60

The Board met again September 15, 2011, to consider establishing final volume regulation percentages for the 2011–12 season. The final percentages are based on the Board's reported production figures and the supply and demand information available in September. The actual production for the 2011–12 season was 231 million pounds, 35 million pounds below USDA's June estimate. Concerned about having an adequate volume of cherries in the free market with actual production below the estimate, the Board voted to make a further adjustment of 40 million pounds in addition to the June adjustment. Using the actual production numbers, and accounting for the two adjustments, as well as the market growth factor, the restricted percentage was recalculated.

The Board used the same carry-in figure used in June of 57 million pounds, and subtracted it from the optimum supply of 174 million pounds, calculating the 2011–12 production volume required to meet the optimum supply of 117 million pounds. The 117 million pounds was subtracted from the actual production of 231 million pounds, resulting in a surplus of 114 million pounds of tart cherries. The surplus was then reduced by subtracting the two economic adjustments of 30 million pounds and 40 million pounds, and the market growth factor of 17 million pounds, resulting in an adjusted surplus of 27 million pounds. This surplus was then divided by the actual production in the regulated districts (218 million pounds) to calculate a restricted percentage of 12 percent with a corresponding free percentage of 88 percent for the 2011–12 crop year, as outlined in the following table:

	Millions of pounds
Final Calculations:	
(1) Average sales of the prior three years	174
(2) Plus desirable carry-out	0
(3) Optimum supply calculated by the Board	174
(4) Carry-in as of July 1, 2011	57
(5) Adjusted optimum supply (item 3 minus item 4)	117
(6) Board reported production	231
(7) Surplus (item 6 minus item 5)	114
(8) Total economic adjustments	70
(9) Market growth factor	17
(10) Adjusted Surplus (item 7 minus items 8 and 9)	27
(11) Crop estimate for regulated districts	218
	Percent
Final Percentages:	
Restricted (item 10 divided by item 11 × 100)	12
Free (100 minus restricted percentage)	88

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is oversupplied with cherries, grower prices decline substantially. Restricted percentages have benefited grower returns and helped stabilize the market as compared to those seasons prior to the implementation of the order. The Board believes the available information indicates that a restricted percentage should be established for the 2011–12 crop year to avoid oversupplying the market with tart cherries. Consequently, based on its discussion of this issue and the result of the above calculations, the Board recommended final percentages of 88 percent free and 12 percent restricted by a vote of 13 in favor and 4 against.

Of the four Board members who opposed the recommendation, one believed regulation was unnecessary for the current crop year, while the other three believed the recommended percentages were not restrictive enough. The member who believed the regulation was too restrictive cited strong sales in the previous season and moderate production volume for this crop year. In its discussion regarding the establishment of a restricted percentage for the 2011–12 crop year, the Board did recognize the strong sales in the previous season, as well as the fact that actual production had come in below the production estimate. In response, the Board voted to make two adjustments to make additional volume available. However, the majority of Board members still held that market conditions warranted some level of restriction. Further, the Board could meet and recommend the release of additional volume during the crop year, if warranted.

One of those who opposed the recommendation as not being restrictive enough stated that making the two adjustments and increasing the free volume this season could result in large inventories carrying over into the next season, which would require increased restrictions and dampen prices. Another stated that strong demand might not be sustained in the coming year and making additional fruit available at the onset of the season was premature and could result in an oversupply of the market. One opponent also stated that rather than making adjustments now, the Board could vote to release a portion of reserves later in the season to provide more fruit if necessary. However, most Board members believed that making more fruit available to the market was warranted. Board members cited the two releases from the previous season, sales volume from last year, and the smaller than anticipated crop in support of making more free tonnage available. It was also argued that increasing the volume of cherries available at the onset of the season could facilitate additional sales.

After reviewing the available data, and considering the concerns expressed, the majority of the Board determined that a 12 percent restriction would meet sales needs without oversupplying the market. Thus, the Board recommended establishing final percentages of 88 percent free and 12 percent restricted.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the marketing order and approximately 600 producers of tart cherries in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service, and Board data, the average annual grower price for tart cherries during the 2010–11 season was $0.221 per pound, and total shipments were around 270 million pounds. Therefore, average receipts for tart cherry producers were around $99,000, well below the SBA threshold for small producers. In 2010, The Food Institute estimated an f.o.b. price of $0.84 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Using this data, average annual handler receipts were about $5.7 million, also below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

The tart cherry industry in the United States is characterized by wide annual fluctuations in production. According to the National Agricultural Statistics Service, tart cherry production in 2007 was 253 million pounds, 214 million pounds in 2008, 359 million pounds in 2009, and in 2010, production was 190 million pounds. Because of these fluctuations, the supply and demand for tart cherries are rarely in equilibrium.

Demand for tart cherries is inelastic, meaning changes in price have a minimal effect on total sales volume. However, prices are very sensitive to

changes in supply, and grower prices vary widely in response to the large swings in annual supply, with prices ranging from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991.

Because of this relationship between supply and price, oversupplying the market with tart cherries would have a sharp negative effect on prices, driving down grower returns. The Board, aware of this economic relationship, focuses on using the volume control authority in the order in an effort to balance supply and demand in order to stabilize industry returns. This authority allows the industry to set free and restricted percentages as a way to bring supply and demand into balance. Free percentage cherries can be marketed by handlers to any outlet, while restricted percentage volume must be held by handlers in reserve, be diverted or used for exempted purposes.

This proposal would establish final free and restricted percentages for the 2011–12 crop year under the order for tart cherries. This action would control the supply of tart cherries by establishing percentages of 88 percent free and 12 percent restricted for the 2011–12 crop year. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The action would regulate tart cherries handled in Michigan, New York, Utah, and Washington. The authority for this action is provided for in §§ 930.51(a) and 930.52 of the order. The Board recommended this action at a meeting on September 15, 2011.

As mentioned earlier, the USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 110 percent of the quantity shipped in the prior three years.

This action would result in some fruit being diverted from the primary domestic markets. However, there are secondary uses available for restricted fruit, including the development of new products, sales into new markets, the development of export markets, and being placed in reserve. While these alternatives may provide different levels of return than the sales to primary markets, they play an important role for the industry. The areas of new products, new markets, and the development of export markets utilize restricted fruit to develop and expand the market for tart cherries. Last season, these areas accounted for more than 50 million pounds in sales.

Placing tart cherries into reserves is a key part of balancing supply and demand. Although the industry must bear the costs of handling and storage for fruit in reserve, reserves warehouse supplies in large crop years in order to supplement supplies in short crop years. The reserves allow the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to maintain and supply markets in years where production falls below demand. Further, the costs for storage, interest, and handling of the cherries are more than offset by the increase in price when moving from a large crop to a short crop year.

In addition, this action would be less restrictive than in previous seasons and would be the lowest restricted percentage since 2008. At this level of restriction, nearly all restricted fruit should be utilized by the end of the crop year. Consequently, it is not anticipated that this action would unduly burden growers or handlers.

While this action could result in some additional costs to the industry, these costs are more than outweighed by the benefits. The purpose of setting restricted percentages is to attempt to bring supply and demand into balance. If the primary market (domestic) is oversupplied with cherries, grower prices decline substantially. Without volume control, the primary market would likely be oversupplied, resulting in lower grower prices.

The three districts in Michigan, along with the districts in Utah, New York, and Washington are the restricted areas for this crop year with a combined total production of 218.4 million pounds. A 12 percent restriction means 192.2 million pounds would be available to be shipped to primary markets from these four states. The 192.2 million pounds from the restricted districts, the 12.2 million pounds from the unrestricted districts (Oregon, Pennsylvania, and Wisconsin), and the 57 million pound carry-in inventory would make a total of 261.4 million pounds available as free tonnage for the primary markets.

To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. Based on the model, the use of volume control would have a positive impact on grower returns for this crop year. With volume control, grower prices are estimated to be approximately $0.06 per pound higher, and total grower revenue from processed cherries is estimated to be $6.2 million higher than without restrictions. The without-restrictions scenario assumes that all tart cherries produced would be delivered to processors for payments.

Prior to the implementation of the order, grower price often did not come close to covering the cost of production. For the 2011–12 crop year, yield is estimated at approximately 6,470 pounds per acre. At this level of yield, the cost of production is estimated to be $0.33 per pound (costs were estimated by representatives of Michigan State University).

In addition, absent volume control, the industry could start to build large amounts of unwanted inventories. These inventories would have a depressing effect on grower prices. The econometric model shows for every 1 million-pound increase in carry-in inventories, a decrease in grower prices of $0.0037 per pound occurs.

Retail demand is assumed to be highly inelastic which indicates that changes in price do not result in significant changes in the quantity demanded. Consumer prices largely do not reflect fluctuations in cherry supplies. Therefore, this action should have little or no effect on consumer prices and should not result in a reduction in retail sales.

The free and restricted percentages established by this rule would provide the market with optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. As the restriction represents a percentage of a handler's volume, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities.

The stabilizing effects of this action would benefit all handlers by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all growers and handlers by allowing them to better anticipate the revenues their tart cherries would generate. Growers and handlers, regardless of size, would benefit from the stabilizing effects of this restriction.

One alternative to this action considered was to not regulate the volume of the 2011–12 crop. However, Board members believed that although sales have been strong, there is enough of a surplus to necessitate restricting a portion of the crop to keep prices stable.

Another alternative considered was setting the carry-out value at 10 or 20 million pounds in the OSF. Board members indicated that such a change would require further consideration by the Board, and did not receive sufficient support.

The Board also considered differing levels of adjustments under the OSF when considering supply. The alternative adjustments were deemed to be either too small to address industry needs, or so large that members were concerned with creating an oversupply. Therefore, these alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0177, Tart cherries Grown in the States of MI, NY, PA, OR, UT, WA, and WI. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action would not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the September 15, 2011, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate because this rule would need to be in place as soon as possible since handlers are already shipping tart cherries from the 2011–12 crop. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 930.256 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 930.256 Final free and restricted percentages for the 2011–12 crop year.

The final percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2011, which shall be free and restricted, respectively, are designated as follows: Free percentage, 88 percent and restricted percentage, 12 percent.

Dated: February 28, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–5171 Filed 3–1–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

[Doc. No. AMS–LS–11–0086]

Beef Promotion and Research; Amendment to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would expand the contracting authority as established under the Beef Promotion and Research (Order). The Beef Research and Information Act (Act) requires that the Beef Promotion Operating Committee (BPOC) enter into contracts with established national non-profit industry-governed organizations including the Federation of State Beef Councils to implement programs of promotion, research, consumer information, and industry information. The Act does not define ''national non-profit industry governed organization,'' however, the Order states that these organizations must be governed by a board of directors representing the cattle or beef industry on a national basis and that they were active and ongoing prior to enactment of the Act. This proposed rule would change the date requirement in the Order so that organizations otherwise qualified could be eligible to contract with the BPOC for the implementation and conduct of Beef Checkoff programs if they have been active and ongoing for at least two years.

DATES: Written comments must be received by May 1, 2012.

ADDRESSES: Comments must be posted online at *www.regulations.gov* or sent to Craig Shackelford, Agricultural Marketing Specialist, Marketing Programs Division, Livestock and Seed Program, Agricultural Marketing Service, USDA, Room 2628–S, STOP 0251, 1400 Independence Avenue SW., Washington, DC 20250–0251; or fax to (202) 720–1125. All comments should reference the docket number, the date, and the page number of this issue of the **Federal Register**. Comments will be available for public inspection at the aforementioned address, as well as on the Internet at *http://www.regulations.gov/*.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, Agricultural Marketing Specialist, Marketing Programs Division, on 202/720–1115, fax 202/720–1125, or by email at *craig.shackelford@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

Executive Order 12988

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

Section 11 of the Act provides that nothing in the Act may be construed to preempt or supersede any other program relating to beef promotion organized and operated under the laws of the United States or any State. There are no administrative proceedings that must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

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

In the February 2011 publication of ''Farms, Land in Farms, and Livestock Operations,'' the U.S. Department of Agriculture's (USDA) National Agricultural Statistics Service (NASS) estimates that in 2010 the number of operations in the United States with cattle totaled approximately 935,000. The majority of these operations that are subject to the Order may be classified as small entities.

The proposed rule imposes no new burden on the industry. It merely expands the contracting authority within the Order to permit a greater number of organizations to perform work on behalf of the BPOC. These organizations in general represent the operations that are subject to the Order.

Background and Proposed Action

The Order is authorized by the Act of 1985 [7 U.S.C. 2901–2918]. The Act was passed as part of the 1985 Farm Bill [Pub. L. 99–198]. The program became effective on July 18, 1986, when the Order was issued [51 FR 26132]. Assessments began on October 1, 1986.

Section 5(6) of the Act provides that the BPOC, to insure coordination and efficient use of funds, shall enter into contracts or agreements for implementing any activities which it has approved to be carried out, with established national nonprofit industry-governed organizations including the Federation of State Beef Councils. This language has the effect of requiring the BPOC to contract with organizations, which qualify as established national non-profit industry-governed organizations. The Act does not define ''national non-profit industry governed organization.''

Currently, section 1260.113 of the Order defines ''established national non-profit industry-governed organizations'' as organizations which: (a) Are non-profit organizations pursuant to sections 501(c)(3), (5) or (6) of the Internal Revenue Code (26 U.S.C. 501(c)(3), (5), and (6)); (b) are governed by a board of directors representing the cattle or beef industry on a national basis; and (c) were active and ongoing before enactment of the Act. This proposed rule would amend section 1260.113 of the Order by replacing the existing language under paragraph (c), ''were active and ongoing before the enactment of the Act'' with ''have been active and ongoing for at least two years.''

The Act, enacted on December 23, 1985, directed the Secretary of Agriculture (Secretary) to accept proposals from any certified organization or interested person. The Department published an invitation to submit proposals in the **Federal Register** on February 14, 1986 [51 FR 5543]. USDA received an industry proposal that it published in a proposal rule on March 14, 1986 [51 FR 8980]. This proposed rule included a definition of ''established national non-profit industry governed organizations'' that read: '''Established National Non-profit Industry Governed Organizations' means any organization which: (a) are non-profit organizations pursuant to sections 501(c)(3), (5) or (6) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), (5) and (6); (b) are governed by a board of directors representing the cattle or beef industry on a national basis whose Board is composed of a majority of producers; and (c) was active and ongoing before enactment of the Act.''

The final rule that issued the Order was published on July 18, 1986 [51 FR 26132]. The definition for ''established national non-profit industry governed organizations'' was modified by deletion of the requirement that the board of directors of such organizations be composed of a majority of producers. This modification was made based on comments to the proposed rule that said the previous definition was too restrictive.

At the time of the passage of the Act and the promulgation of the Order, a limited number of industry-governed organizations existed with the requisite knowledge, skills, and experience related to the marketing of beef and beef products. The proponents of the Beef Checkoff wished to utilize and coordinate with those organizations already conducting activities similar to those envisioned under the Act and to enhance coordination and the efficient use of funds among beef promotion entities, and to enhance accountability to producers.

This proposed rule would amend the definition of ''Established National Non-profit Industry Governed Organizations'' to permit the BPOC to contract with a growing number of organizations possessing the requisite experience, skills and information related to the marketing of beef and beef products that exist today while still requiring a minimum level of organizational experience so as not to encourage the unnecessary proliferation of inexperienced organizations desiring to contract with the BPOC. USDA believes that a minimum level of experience within an organization is beneficial. To achieve both goals, this proposal would amend § 1260.113 ''Established national non-profit industry-governed organizations'' by replacing the existing language under paragraph (c) to read ''have been active or ongoing for at least two years.''

In 2006, the National Cattlemen's Beef Association (NCBA) and the American Farm Bureau initiated the Industry-Wide Beef Checkoff Taskforce (Taskforce) to review, study, and recommend enhancements to the Beef Checkoff program for the purpose of strengthening the Beef Checkoff Program for the common good of the beef industry. The Taskforce included producer and industry representatives and representatives from national organizations, while USDA took on an advisory role during meetings. The Taskforce issued a report in September 2006, which included a recommendation to eliminate section 1260.113(c) in order to make the Beef Checkoff more inclusive. USDA believes that permitting a greater number of organizations to contract with the BPOC could bring new perspectives to the contracting process.

In February 2008 at the Cattle Industry Annual Convention, leaders of the Cattlemen's Beef Board (Board) asked AMS officials if the Board could conduct a program review. The industry officials believed that it would be in the best interest of the Beef Checkoff Program to conduct a review of the operations to determine if there are any changes that need to or could be made in program operations, the Act, or Order that would facilitate a more effective Beef Checkoff Program. Included in the Board's subsequent January 2009 recommendations to AMS was a recommendation for a statutory amendment intended to result in an expansion of the contracting authority to organizations created after the 1986 enactment of the Act.

Finally, a meeting was held in Minneapolis, Minnesota, on September 27, 2011, attended by many industry stakeholders and co-hosted by the U.S. Cattlemen's Association and the National Farmers Union as requested by the Secretary. The goal of the meeting

was to bring more broad-based producer support to the Beef Checkoff program through a discussion of issues regarding Beef Checkoff administration and to provide the Secretary with recommendations that would enhance support for the Beef Checkoff. Many major Beef Checkoff industry stakeholders attended, including the American National Cattlewomen, American Veal Association, Livestock Marketing Association, NCBA, National Livestock Producers Association, and Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R–CALF). Representatives from the AMS also attended the meeting, as did the Chief Executive Officer and Producer Chairman of the Board.

As a result of that meeting, the Secretary received a joint letter signed by most of the organizations in attendance. The letter requested that USDA amend Beef Checkoff regulations to expand the contracting authority as authorized under the Act and Order by permitting organizations that are active and ongoing for at least two years to contract with the BPOC.

Conclusion

A greater number of beef industry organizations exist now than did at the time the Order was issued. The Beef Checkoff Program could benefit from the perspectives and skills of some of these organizations that are ineligible solely because they were formed after the enactment of the Act. For several years, the beef industry has been recommending expanding the eligibility of organizations to contract with the BPOC in order to enhance the Beef Checkoff Program. Amending the Order would allow the BPOC to contract with organizations possessing the requisite experience, skills and information related to the marketing of beef and beef products, as is intended under the Act.

A 60-day comment period is provided to allow interested persons to respond to this proposal. Sixty days is deemed appropriate to facilitate the orderly and thoughtful consideration of this proposal.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreement, Meat and meat products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1260 be amended as follows:

PART 1260—BEEF PROMOTION AND RESEARCH

1. The authority citation for 7 CFR part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901–2911 and 7 U.S.C. 7401.

2. In § 1260.113, paragraph (c) is revised to read as follows:

§ 1260.113 Established national non-profit industry-governed organizations.

* * * * *

(c) Have been active and ongoing for at least two years.

Dated: February 28, 2012.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2012–5145 Filed 3–1–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 719

48 Parts 931, 952 and 970

RIN 1990–AA37

Contractor Legal Management Requirements; Acquisition Regulations

AGENCY: Office of General Counsel, Department of Energy.

ACTION: Reopening of public comment period.

SUMMARY: This document announces a reopening of the time period for submitting comments on the Department of Energy (DOE or Department) notice of proposed rulemaking (NOPR) to revise existing regulations covering contractor legal management requirements and make conforming amendments to the Department of Energy Acquisition Regulation (DEAR) (76 FR 81408). The comment period is reopened until March 16, 2012.

DATES: The comment period for the request for information relating to the DOE notice of proposed rulemaking to revise existing regulations covering contractor legal management requirements and make conforming amendments to the DEAR is reopened until March 16, 2012.

ADDRESSES: Any comments submitted must identify this NOPR on Contractor Legal Management Requirements, and provide regulatory information number (RIN) 1990–AA37. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: DOE.719comments@hq.doe.gov.* Include RIN 1990–AA37 in the subject line of the message.

3. *Mail:* Lisa Pinder, Administrative Assistant, U.S. Department of Energy, Office of General Counsel, GC–60, 1000 Independence Ave. SW., Washington, DC 20585. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Lisa Pinder, Administrative Assistant, U.S. Department of Energy, GC–60, 1000 Independence Ave. SW., Washington, DC 20585. Telephone: (202) 586–5426. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No faxes will be accepted.

For further information on how to submit a public comment, review other public comments and the docket, contact Ms. Lisa Pinder (202) 586–5426 or by Email: *lisa.pinder@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Eric Mulch, Attorney-Adviser, U.S. Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–5746. Email: *eric.mulch@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On December 28, 2011, The DOE published a NOPR in the **Federal Register** (76 FR 81408) to revise existing regulations covering contractor legal management requirements and make conforming amendments to the DEAR. The NOPR requested public comment from interested parties regarding the proposed revisions by February 27, 2012. DOE has determined that reopening the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is reopening the comment period until March 16, 2012 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by March 16, 2012 to be timely submitted.

Issued in Washington, DC, on February 27, 2012.

Paul Bosco,

Director, Office of Procurement and Assistance Management, Department of Energy.

Barbara Stearrett,

Deputy Director, Office of Acquisition, Management, National Nuclear Security Administration.

[FR Doc. 2012–5113 Filed 3–1–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0060; Directorate Identifier 2012–NE–02–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain PW4000 series turbofan engines. This proposed AD was prompted by reports of 3rd and 4th stage vane fractures in the low pressure turbine (LPT) of certain PW4000–94″ and PW4000–100″ turbofan engines. These fractures caused an uncontained engine failure, an LPT case puncture, and multiple in flight shutdowns. We are proposing this AD to prevent 3rd and 4th stage vane fractures in the LPT, which could damage the LPT rotor and lead to an uncontained engine failure and damage to the airplane.

DATES: We must receive comments on this proposed AD by May 1, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–4321. You may review copies of the referenced service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: James Gray, Aerospace Engineer, Engine Certification Office, FAA, 12 New England Executive Park; phone: 781–238–7742; fax: 781–238–7199; email: *james.e.gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0060; Directorate Identifier 2012–NE–02–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received reports of 3rd and 4th stage vane fractures in the LPT of certain PW4000–94″ and PW4000–100″ turbofan engines. These fractures caused an uncontained engine failure, an LPT case puncture, and multiple in flight shutdowns. We have identified four primary root causes for LPT vane failures:

1. Inadequate retention of the vane in the case due to dimensional tolerances which causes 3rd stage vane liberations. This AD requires dimensional inspections of the 3rd stage vanes at their retention points and case at LPT assembly after overhaul.

2. Non-uniform airfoil fillet radii found on vanes produced prior to 2005 which causes 4th stage vane fractures. This AD removes these vanes, identified by the casting identifier, from service at the next LPT overhaul.

3. Multiple strip-and-recoat repairs of the 4th stage vanes which degrade the structural integrity of the vanes and cause 4th stage vane fractures. This AD removes from service 4th stage vanes with multiple strip-and-recoat repairs. This AD also prohibits approving for return to service any 4th stage vane with more than one strip-and-recoat repair.

4. Aerodynamic excitation of the vanes which causes 4th stage vane fractures. The excitation is attributed to the rotor assembly methods for the upstream rotor stages. This AD requires reassembling the 2nd stage HPT blades at the next HPT overhaul and the 3rd stage LPT blades at the next LPT overhaul, using the latest assembly technique.

The actions proposed in this AD are intended to address each of the root causes identified above. This condition, if not corrected, could result in 3rd and 4th stage vane fractures in the LPT, which could damage the LPT rotor and lead to an uncontained engine failure and damage to the airplane.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type designs.

Proposed AD Requirements

This proposed AD would require dimensional inspections of 3rd stage vanes and the rear turbine case. This AD also requires inspection of 4th stage vanes at the next LPT overhaul and removal of vanes with non-conforming airfoil fillet radii and vanes with more than one strip and recoat repair. This AD also requires disassembly and reassembly of the 2nd stage HPT rotor and 3rd stage LPT rotor at the next HPT and LPT overhauls.

Costs of Compliance

We estimate that this proposed AD affects 807 engines installed on airplanes of U.S. registry. We estimate that it would take 2 work-hours per engine to perform the LPT 3rd stage vane cluster assembly and rear turbine case inspections. The average labor rate

is $85 per work-hour. We expect that approximately 1,870 LPT 4th stage vane cluster assemblies will be found with the non-conforming casting identification. Replacement parts cost about $4,854. We estimate that limiting 4th stage vanes to one strip-and-recoat repair will remove ⅓ of the useful part life expectancy of the vanes on 323 engines at a prorated cost of $71,000 per engine. We do not associate any additional costs with reassembling 2nd stage HPT blades and 3rd stage LPT blades using the latest procedures as this is done at overhaul. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $32,147,170.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney Division: Docket No. FAA–2012–0060; Directorate Identifier 2012–NE–02–AD.

(a) Comments Due Date

We must receive comments by May 1, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Pratt & Whitney Division (PW) turbofan engines:

(1) PW4000–94″ engine models PW4050, PW4052, PW4056, PW4152, PW4156, PW4650, PW4060, PW4060A, PW4060C, PW4062, PW4062A, PW4156A, PW4158, PW4160, PW4460, and PW4462 including models with any dash number suffix.

(2) PW4000–100″ engine models PW4164, PW4164C, PW4164C/B, PW4168, PW4168A, PW4164–1D, PW4164C–1D, PW4164C/B–1D, PW4168–1D, PW4168A–1D, and PW4170.

(d) Unsafe Condition

This AD was prompted by reports of 3rd and 4th stage vane fractures in the low pressure turbine (LPT) of certain PW4000–94″ and PW4000–100″ turbofan engines. These fractures caused an uncontained engine failure and an LPT case puncture, and resulted in multiple in flight shutdowns. We are issuing this AD to prevent 3rd and 4th stage vane fractures in the LPT, which could damage the LPT rotor and lead to an uncontained engine failure and damage to the airplane.

(e) Compliance

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

(1) At the next LPT overhaul do the following:

(i) Remove LPT 4th stage vanes from service if more than one strip and recoat repair has been performed, or if the number of strip and recoat repairs are unknown. After the effective date of this AD, do not install or reinstall into any engine any LPT 4th stage vanes that have had more than one strip and recoat repair.

(ii) Re-assemble the 3rd stage LPT rotor blades using a method that will alternate heavy blades next to light blades and balance blades of similar weights 180 degrees across the rotor.

(iii) Inspect the LPT 3rd stage vane cluster assembly. Ensure adequate engagement between the vane cluster assembly and the rear turbine case.

(iv) Examine the vane and airseal engagement slots on the rear turbine case where the 3rd stage vane is installed. Ensure adequate engagement exists for assembly of the 3rd stage vane cluster assembly and the rear turbine case.

(v) Inspect the 44 LPT 4th stage vane cluster assemblies PN 52N774–01 for casting identification ''51N554AT 1447 2S1C1'' and PN 52N674–01 for casting identification ''51N454AT 655 2S1C1.'' Remove the vane cluster assembly from service if either of these casting identifications is found.

(2) At the next HPT overhaul, re-assemble the 2nd stage HPT rotor blades using a method that will alternate heavy blades next to light blades and balance blades of similar weights 180 degrees across the rotor.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(g) Related Information

(1) Guidance on the assembly method of paragraph (e)(1)(ii) of this AD can be found in the applicable engine manual: PN 50A605 or PN 50A822 Task 72–53–03–440–001, dated September 15, 2006; or PN 50A443 Task 72–53–03–440–001, dated May 1, 2007; or PN 51A342 Task 72–53–03–440–002–003, dated September 15, 2006.

(2) Guidance on the dimensional inspection of paragraph (e)(1)(iii) of this AD can be found in the Clean Inspect Repair Manual, PN 51A357 Task 72–53–23–200–004, dated January 15, 2011.

(3) Guidance on the dimensional inspections of paragraph (e)(1)(iv) of this AD can be found in the Clean Inspect Repair Manual, PN 51A357 Subtask 72–53–17–220–060, dated September 15, 2009.

(4) Guidance on the assembly method of paragraph (e)(2) of this AD can be found in the applicable engine manual: PN 50A605, PN50A822, or PN50A443 Task 72–52–02–440–001, dated May 1, 2010; or PN 51A342 Task 72–52–02–440–001, dated September 15, 2011.

(5) For more information about this AD, contact James Gray, Aerospace Engineer, Engine Certification Office, FAA, 12 New England Executive Park; phone: 781–238–7742; fax: 781–238–7199; email: *james.e.gray@faa.gov.*

(6) For service information identified in this AD, contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; phone: 860–565–4321. You may review copies of the referenced service information at the FAA,

Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on February 27, 2012.

Peter A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2012–5094 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0218; Directorate Identifier 2012–CE–003–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Hawker Beechcraft Corporation Models 58 and G58 airplanes. This proposed AD was prompted by installation of oversized clamps on fuel vapor return and/or fuel vent lines in the outboard sections of the left and right wings. This proposed AD would require inspecting for oversized or deformed fuel hose clamps and replacing as necessary. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 16, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Thomas Teplik, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4196; fax: (316) 329–4090; email: *thomas.teplik@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–12–0218; Directorate Identifier 2012–CE–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports of installation of oversized clamps on fuel vapor return and/or fuel vent lines in the outboard sections of the left and right wings on Hawker Beechcraft Corporation Models 58 and G58 airplanes. This condition, if not corrected, could result in leakage of fuel or vapor in areas where electrical wiring and other potential ignition sources are present, which could lead to an inflight fire.

Relevant Service Information

We reviewed Hawker Beechcraft Mandatory Service Bulletin No. SB 28–4039, Revision 1, dated October 2011. The service bulletin describes procedures for inspecting for oversized or deformed fuel hose clamps and replacing as necessary.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 244 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Defueling, inspection of the fuel hose clamps, and refueling.	3.5 work-hours × $85 per hour = $297.50	Not applicable	$297.50	$72,590

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of fuel hose clamps (Cost represents replacement of a maximum of 20 clamps depending on airplane configuration).	3 work-hours × $85 per hour = $255	$20	$275

Note: According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Hawker Beechcraft Corporation: Docket No. FAA–2012–0218; Directorate Identifier 2012–CE–003–AD.

(a) Comments Due Date

We must receive comments by April 16, 2012.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to the following Hawker Beechcraft Corporation airplanes that are certificated in any category:

(i) Model 58, serial numbers TH–1931 through TH–2124, and

(ii) Model G58, serial numbers TH–2125 through TH–2281, TH–2283, and TH–2284.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 28; fuel.

(e) Unsafe Condition

This AD was prompted by installation of oversized clamps on fuel vapor return and/ or fuel vent lines in the outboard sections of the left and right wings. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Inspection

Within the next 50 hours time-in-service after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, inspect the fuel hose clamps for oversized or deformed clamps following Hawker Beechcraft Mandatory Service Bulletin No. SB 28–4039, Revision 1, dated October 2011.

Note: If you have a scheduled inspection before the compliance time of this AD, the FAA recommends you comply with this AD at that time.

(h) Replacement

If any oversized or deformed clamps are found during the inspection required in paragraph (g) of this AD, before further flight, replace the clamps following Hawker Beechcraft Mandatory Service Bulletin No. SB 28–4039, Revision 1, dated October 2011.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(j) Related Information

(1) For more information about this AD, contact Thomas Teplik, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4196; fax: (316) 329–4090; email: *thomas.teplik@faa.gov*.

(2) For service information identified in this AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave. Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: tmdc@hawkerbeechcraft.com; or Internet: *http://www.hawkerbeechcraft.com/ customer_support/ technical_and_field_support/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 24, 2012.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–5086 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1367; Airspace Docket No. 11–ASO–41]

Proposed Amendment of Class E Airspace; Tullahoma, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Tullahoma, TN, as the Arnold Air Force Base has been closed and therefore controlled airspace associated with the airport is being removed. This action also would update the geographic coordinates at Tullahoma Regional Airport/Wm Northern Field. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations in the Tullahoma, TN area.

DATES: Comments must be received on or before April 16, 2012.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–1367; Airspace Docket No. 11–ASO–41, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–1367; Airspace Docket No. 11–ASO–41) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–1367; Airspace Docket No. 11–ASO–41.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface to support new standard instrument approach procedures developed at Tullahoma Regional Airport/Wm Northern Field, Tullahoma, TN. Airspace reconfiguration is necessary due to the closing of the Arnold Air Force Base, and for continued safety and management of IFR operations within the Tullahoma, TN airspace area. The geographic coordinates for Tullahoma Regional Airport/Wm Northern Field also would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 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 Class E airspace designation listed in this document will be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in subtitle VII, part, A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it

would amend Class E airspace in the Tullahoma, TN area.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO TN E5 Tullahoma, TN [Amended]

Tullahoma Regional Airport/Wm Northern Field, TN
(Lat. 35°22′48″ N., long. 86°14′48″ W.)
Winchester Municipal Airport
(Lat. 35°10′39″ N., long. 86°03′58″ W.)
Manchester Medical Center, Point In Space Coordinates
(Lat. 35°29′56″ N., long. 86°05′37″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Tullahoma Regional Airport/Wm Northern Field and within 4 miles either side of the 360° bearing from the airport extending from the 7-mile radius to 12 miles north of the airport, and within an 11-mile radius of Winchester Municipal Airport, and within a 6-mile radius of the point in space (lat. 35°29′56″ N., long. 86°05′37″ W.) serving Manchester Medical Center.

Issued in College Park, Georgia, on February 24, 2012.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–5130 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0369; Airspace Docket No. 11–AEA–07]

Proposed Establishment of Class E Airspace; Wilkes-Barre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM), withdrawal.

SUMMARY: A notice of proposed rulemaking published in the **Federal Register** on July 1, 2011, establishing Class E airspace at Wilkes-Barre/Wyoming Valley Airport, Wilkes-Barre, PA, is being withdrawn. Controlled airspace already exists for area airports under this city designator. A new proposal amending the existing airspace will be submitted under a separate rulemaking.

DATES: Effective 0901 UTC March 2, 2012, the proposed rule published July 1, 2011 (76 FR 38585), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Richard Horrocks, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5588.

SUPPLEMENTARY INFORMATION:

History

On July 1, 2011, a NPRM was published in the **Federal Register** establishing Class E airspace at Wilkes-Barre, PA, to accommodate new standard instrument approach procedures for Wilkes-Barre/Wyoming Valley Airport, Wilkes-Barre, PA (76 FR 38585). Subsequent to publication the FAA found that Class E airspace extending upward from 700 feet above the surface currently exists for Wilkes-Barre, PA, with the primary airport being Wilkes-Barre/Scranton International Airport. To avoid confusion this proposed rule is being withdrawn and another rulemaking will be forthcoming adding Wilkes-Barre/Wyoming Valley Airport to the current city designator, Wilkes-Barre, PA.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, as published in the **Federal Register** of July, 1, 2011 (76 FR 38585) (FR Doc. 2011–16664), is hereby withdrawn.

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

Issued in College Park, Georgia, on February 15, 2012.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2012–5132 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 366

[Docket No. RM11–12–000]

Availability of E-Tag Information to Commission Staff

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice providing for reply comments.

SUMMARY: On April 21, 2011, the Commission issued a Notice of Proposed Rulemaking (76 FR 23516) proposing to require the Commission-certified Electric Reliability Organization to make available to Commission staff, on an ongoing basis, access to complete electronic tagging data used to schedule the transmission of electric power in transmission markets. The Commission is providing interested parties an opportunity to file reply comments on the Notice of Proposed Rulemaking. These reply comments may also address whether the Commission should require entities that create e-Tags or distribute them for approval to provide the Commission with viewing rights to the e-Tags.

DATES: Reply comments are due March 26, 2012.

ADDRESSES: You may submit reply comments, identified by Docket No.

RM11–12–000, by any of the following methods:

• *Agency Web Site: http://www.ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• *Mail/Hand Delivery:* Commenters unable to file comments electronically must mail or hand deliver an original of their comments to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Maria Vouras (Technical Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8062, Email: *maria.vouras@ferc.gov*.

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8321, Email: *gary.cohen@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Notice Providing for Reply Comments

(February 23, 2012).

On April 21, 2011, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the above-referenced proceeding [1] proposing to require the Commission-certified Electric Reliability Organization to make available to Commission staff, on an ongoing basis, access to complete electronic tagging data used to schedule the transmission of electric power in wholesale markets. Initial comments on this NOPR were due on June 29, 2011. The Commission is providing interested parties with an opportunity to file reply comments on the NOPR. These reply comments may also address whether the Commission should require entities that create e-Tags or distribute them for approval to provide the Commission with viewing rights to the e-Tags.

By this notice, reply comments should be filed on or before March 26, 2012.

Dated: February 23, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5002 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

[1] Availability of E-Tag Information to Commission Staff, 135 FERC ¶ 61,052 (2011).

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AE08

Special Regulations; Areas of the National Park System, Saguaro National Park, Bicycle Route

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to designate the Hope Camp Trail as a bicycle route within Saguaro National Park (Park). The National Park Service general regulation at 36 CFR 4.30(b) requires promulgation of a special regulation to designate bicycle routes outside of developed areas and special use zones.

DATES: Comments must be received by May 1, 2012.

ADDRESSES: You may submit comments, identified by the Regulation Identifier Number (RIN) 1024–AE08, by any of the following methods:

• Federal rulemaking portal *http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail or hand deliver to:* Superintendent, Saguaro National Park, 3693 South Old Spanish Trail, Tucson, AZ 85730–5601.

FOR FURTHER INFORMATION CONTACT: Bob Love, Chief Ranger, Saguaro National Park, 520–591–1013.

SUPPLEMENTARY INFORMATION:

Background

Legislation and Purposes of Saguaro National Park

Due to the exceptional growth of various species of cacti, including the giant saguaro cactus, and because of outstanding scientific interest, Saguaro National Park was initially reserved as a National Monument on March 1, 1933 (Presidential Proclamation No. 2032, 47 Stat. 2557).

In 1961, Presidential Proclamation No. 3439 (76 Stat. 1437) enlarged the boundaries of the Saguaro National Monument to include certain lands within the Tucson Mountains containing a remarkable display of relatively undisturbed lower Sonoran desert vegetation, including a spectacular saguaro stand.

In October 1976, Public Law 94–567 (90 Stat. 2692) designated parts of Saguaro National Monument as a wilderness area, known as the Saguaro Wilderness.

On June 19, 1991, Congress passed Public Law 102–61 that included the ''Saguaro National Monument Expansion Act of 1991'' (105 Stat. 303) to authorize the addition of approximately 3,540 acres to the Rincon unit of Saguaro National Monument in order to protect, preserve, and interpret the monument's resources, and to provide for education and benefit to the public.

Under the Saguaro National Park Establishment Act of 1994 (16 U.S.C. 410zz), Saguaro National Monument was renamed Saguaro National Park.

The Park is an important national resource visited by approximately 700,000 people annually. It encompasses/includes approximately 91,450 acres, 71,400 acres of which are designated as wilderness. The Park has two Districts—the Rincon Mountain District east of Tucson and the Tucson Mountain District west of Tucson. Both are within Pima County, Arizona, and are separated by the city of Tucson. The Park protects a superb example of the Sonoran Desert ecosystem, featuring exceptional stands of Saguaro cacti. The Saguaro is the tallest cactus in the United States, and is recognized worldwide as an icon of the American Southwest.

The Hope Camp Trail is a 2.8 mile long hiking and equestrian trail that originates at the Loma Alta Trailhead and travels east through the southwestern portion of the Park's Rincon Mountain District to the Arizona State Trust Lands boundary beyond Hope Camp. The trail generally traverses relatively even terrain and rolling hills, and is lined with a variety and abundance of desert trees and shrubs. The trail is not within proposed, recommended, or designated wilderness.

Prior to NPS acquisition in the mid 1990s, the land was part of a privately-owned ranch, and the trail route was a graded dirt road used to support ranching operations. The former owner also allowed the route to be used for recreational purposes, including hiking, equestrian and bicycle use. Shortly after acquiring the land, NPS closed the route to motor vehicles and bicycles. The trail is currently open to hiker and equestrian use only. Although closed to vehicular traffic, the route remains approximately 14 feet wide, allowing adequate room for two-way passage of diverse user groups.

General Management Plan

The Park's General Management Plan/Environmental Impact Statement (GMP) was completed in 2008. The GMP may be viewed online at *http://parkplanning.nps.gov/sagu*.

The purposes of the GMP are as follows:

- Confirm the purpose, significance, and special mandates of the Park.
- Clearly define resource conditions and visitor uses and experiences to be achieved at the Park.
- Provide a framework for NPS managers to use when making decisions about how to:
  - Best protect Park resources;
  - Provide quality visitor uses and experiences; and
  - Manage visitor uses, and what kinds of facilities, if any, to develop in/near the Park.
- Ensure that a foundation for decision making has been developed in consultation with interested stakeholders and adopted by NPS leadership after an adequate analysis of the benefits, impacts, and economic cost of alternative courses of action.

The GMP identifies six different management zones, which are specific descriptions of desired conditions for Park resources and visitor experiences in different areas of the Park. As identified in the GMP, the Hope Camp Trail lies within the Natural Zone. Under the GMP, activities within the Natural Zone would include hiking, horseback riding, running, bicycling, and viewing flora and fauna. The zone is available for day use only, and visitors are required to stay on trails. The GMP provides that bicycling opportunities will be explored along the Hope Camp Trail.

Comprehensive Trails Management Plan/Environmental Assessment

In November 2005, the Park initiated the development of a Comprehensive Trails Management Plan/Environmental Assessment (Plan/EA) for the Park. Internal scoping occurred with Park staff, planning professionals from the NPS Intermountain Support Office, along with representatives from the U.S. Forest Service and the Sonoran Institute. External scoping included mailing and distribution of three separate newsletters, four public open house meetings and a 60-day public comment period. As a result of this process, four alternatives for the Park's Rincon Mountain District (including a no action alternative) were identified for public comments. Two alternatives called for conversion of the Hope Camp Trail into a multi-use trail, to include the use of mountain bicycles, and two alternatives kept the trail open to hikers and equestrians only. During the public comment period on the draft Plan/EA, the NPS considered 253 pieces of correspondence, containing a total of 638 comments on the draft Plan/EA alternatives.

The objectives of the Plan/EA are to:

- Prevent impairment and unacceptable impacts on natural and cultural resources.
- Provide reasonable access to the trails network and trailheads.
- Eliminate unnecessary and parallel/duplicate trails.
- Ensure that the resulting trails network is safe and maintainable.
- Provide for a clearly designated trail system.
- Provide for a variety of trail experiences.

The Plan/EA was completed in 2009. The selected alternative and the Finding of No Significant Impact (FONSI), signed by the NPS Intermountain Regional Director on July 31, 2009, calls for the conversion of the Hope Camp Trail to a multi-use trail, including bicycling. The Plan/EA and FONSI may be viewed online at *http://www.nps.gov/sagu/parkmgmt/trails.*

History of Bicycle Use

A 2003 rulemaking authorized bicycle use on the 2.5 mile Cactus Forest Trail that bisects the paved, 8-mile-long Cactus Forest Loop Drive in the Rincon Mountain District of the Park. This rule does not address the Cactus Forest Trail, which remains open to bicycle use, as well as hiker and equestrian use. This bicycle trail has recently been used to introduce underserved youth to the Park and the NPS via mountain bike and educational fieldtrips as part of the ''Trips for Kids'' program. Currently, this is the only trail in the Park open to bicycle use.

Authorizing Bicycle Use

This proposed rule would designate as a bicycle route and open to bicycle use, the approximate 2.8 mile Hope Camp Trail, from the Loma Alta Trailhead east to the Arizona State Trust Lands boundary, approximately .2 miles beyond Hope Camp. Park staff, volunteer organizations, and local interest groups would monitor and mitigate the environmental impacts of mountain bike use on the Hope Camp Trail to ensure that the trail is maintained in good condition and that issues of concern are immediately brought to the attention of Park management.

Compliance With Other Laws and Executive Orders

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This is an agency specific rule, supported by the Pima County (AZ) Parks and Recreation Department.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. This rule implements 36 CFR 4.30 which requires the promulgation of special regulations for the designation of bicycle routes outside of developed areas and special use zones.

Regulatory Flexibility Act (RFA)

The Department of the Interior certifies that this document would not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, ''Cost-Benefit and Regulatory Flexibility Analyses for Designating Bicycle Trails in Saguaro National Park'' that is available for review at *http://www.nps.gov/sagu/parkmgmt/trails.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

There are no businesses in the surrounding area economically dependent on bicycle use of this trail. The park does not have any bicycle rental concessioners and current users are predominantly individuals engaged in recreational activities.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule does not have significant takings implications. A taking implications assessment is not required because this rule will not deny any private property owner of beneficial uses of their land, nor will it significantly reduce their land's value. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175)

Under the criteria in Executive Order 13175, we have evaluated this rule and determined that it has no potential effects on federally recognized Indian tribes. Affiliated Native American tribes were contacted by letters sent in December 2008 to solicit any interests or concerns with the proposed action. No responses were received by the Park.

Paperwork Reduction Act (PRA)

This rule does not contain information collection requirements, and a submission under the PRA is not required.

National Environmental Policy Act (NEPA)

We have prepared an environmental assessment and have determined that this rule will not have a significant effect on the quality of the human environment under the NEPA of 1969. The Plan/EA for the Park and FONSI that included an evaluation of bicycling on the Hope Camp Trail may be viewed online at *http://www.nps.gov/sagu/parkmgmt/trails.*

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ''**ADDRESSES**'' section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Drafting Information

The primary authors of this regulation are Robert Love, Chief Ranger, Saguaro National Park, Darla Sidles, Superintendent, Saguaro National Park, John Calhoun and A.J. North, NPS Regulations Program, Washington, DC.

Public Participation

It is the policy of NPS, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested parties may submit written comments, suggestions, or objections regarding this proposed rule to the addresses noted at the beginning of this rule.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the NPS proposes to amend 36 CFR Part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. Revise the authority citation for Part 7 to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); Sec. 7.96 also issued under 36 U.S.C. 501–511, DC Code 10–137 (2001) and DC Code 50–2201 (2001).

2. Revise § 7.11(a) to read as follows:

§ 7.11 Saguaro National Park.

(a) *Bicycles.* (1) The following trails are designated as routes for bicycle use:

(i) That portion of the Cactus Forest Trail inside the Cactus Forest Drive; and

(ii) The Hope Camp Trail, from the Loma Alta Trailhead east to the Arizona State Trust Lands boundary, .2 miles beyond Hope Camp.

(2) The Superintendent may open or close designated routes, or portions thereof, or impose conditions or restrictions for bicycle use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives. The superintendent will provide public notice of all such actions through one or more of the methods listed in § 1.7 of this chapter.

* * * * *

Dated: February 22, 2012.

Rachel Jacobson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2012–5025 Filed 3–1–12; 8:45 am]

BILLING CODE P

POSTAL SERVICE

39 CFR Part 111

POSTNET Barcode Discontinuation

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to revise various sections of the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to set the timetable for discontinuing the use of POSTNET™ barcodes on all types of mail for price eligibility.

DATES: We must receive comments on or before April 2, 2012.

ADDRESSES: Mail or deliver written comments to the Manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 1–202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *MailingStandards@usps.gov,* with a subject line of ''POSTNET Discontinuation.''

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278 or Jeff Freeman, 202–268–2922.

SUPPLEMENTARY INFORMATION:

The Postal Service's proposed rule includes the basis for discontinuing use of POSTNET barcodes and allowing only Intelligent Mail® barcodes (IMb™) for automation price eligibility purposes. The Postal Service understands that many mailers currently use POSTNET barcodes and we are committed to providing information to and working with individual mailers and software providers to ensure that the use of an Intelligent Mail barcode is achievable for all mailing customers. This proposed rule also contains the proposed revisions to the DMM to implement the changes.

Proposed Change for Letters and Flats

For the past several years, both USPS® and the mailing industry have used the Intelligent Mail barcode to gain information about letters and flats as they move from induction to delivery. Postal customers use this information for numerous purposes: to anticipate store traffic, to coordinate sales and marketing efforts, and to design better ''just in time'' inventory and fulfillment systems. USPS also uses this information for multiple purposes: to fulfill regulatory commitments, to manage staffing and workload, and to improve service. We are proposing that the use of the IMb would be required for all automation letters, including Business Reply Mail® letters that qualify for Qualified Business Reply Mail prices and Permit Reply Mail letters, and automation flats by January 2013.

Proposed Change for Letters Only

We propose to revise DMM 202.5.0 to require barcode clear zones on all letters and cards claiming an automation letter price or automation carrier route letter price, and to require all machinable letters to have barcode clear zones. Reserving a barcode clear zone in the bottom right of the mailpiece allows for postal equipment to print and read barcode routing information in cases where no customer-applied address block barcode is present, or is unreadable. It reduces processing costs by increasing barcode recognition rates, keeping mail on automation equipment, and ensures mailpiece visibility. Standards for background and print reflectance (in DMM 708.4.4) are also needed to ensure readability of barcodes in the clear zone.

Proposed Changes for Parcels

Currently, the POSTNET barcode is an available option to satisfy the parcel barcode requirement for Standard Mail® parcels. We propose to eliminate the use of the POSTNET barcode on parcels, unless it is printed in the address block. eVS® parcels would not be allowed to bear POSTNET barcodes in any location.

General

We encourage customers to comment on the proposed changes. This proposed rule provides the opportunity for mailers to make adjustments to their operations before the effective date.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410 (a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C 301–307; 18 U.S.C. 1692–1737:39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters and Cards

201 Physical Standards

* * * * *

3.0 Physical Standards for Machinable and Automation Letters and Cards

3.1 Basic Standards for Automation Letters and Cards

Letters and cards claimed at any machinable, automation, or Standard Mail automation carrier route letter price, must meet the standards in 3.0 and in 202.5.1 for barcode clear zone. Unless prepared as a folded self-mailer, booklet, or postcard under 3.14 through 3.16, each machinable or automation letter must be a sealed envelope (the preferred method) or, if unenveloped, must be sealed or glued completely along all four sides.

* * * * *

3.17 Enclosed Reply Cards and Envelopes

3.17.1 Basic Standard

Mailers may enclose reply cards or envelopes, addressed for return to a domestic delivery address, within automation mailings subject to provisions in 3.0 for enclosures. See 505.1.0 for Business Reply Mail (BRM) standards, 604.4.5.2 for postage evidencing reply mail (also known as Metered Reply Mail or MRM) standards, and 3.17.2 regarding Courtesy Reply Mail (CRM).

[Revise the tile and text of 3.17.2 as follows:]

3.17.2 Courtesy Reply Mail

Courtesy reply mail (CRM) is reply mail other than BRM or MRM enclosed in other mail, with or without prepayment of postage, for return to the address on the reply piece. If postage is required, the customer returning the piece affixes the applicable First-Class

Mail postage. Each piece must meet the physical standards in 1.0 or 2.0.

* * * * *

202 Elements on the Face of a Mailpiece

* * * * *

3.0 Placement and Content of Mail Markings

* * * * *

3.5 Exceptions to Markings

Exceptions are as follows:

[Revise the first sentence in item 3.5a as follows:]

a. Automation letters. Automation letters do not require an ''AUTO'' marking if they bear an Intelligent Mail barcode with a delivery point routing code in the address block or on an insert visible through a window.

* * * * *

5.0 Barcode Placement

5.1 Barcode Clear Zone

[Revise the first sentence of 5.1 as follows:]

Each letter-size piece in mailings at machinable letter prices and in automation or Enhanced Carrier Route mailings at automation letter prices must have a barcode clear zone as described below. * * *

* * * * *

5.2 General Barcode Placement for Letters

[Revise the first sentence of 5.2, and add a new second sentence, as follows:]

Automation price letters and letters claimed at automation Enhanced Carrier Route saturation or high density prices must bear an Intelligent Mail barcode with a delivery point routing code. A nonautomation letter may bear an Intelligent Mail barcode or a POSTNET barcode, under 708.4.0. * * *

* * * * *

5.4 5-Digit and ZIP+4 Barcode Permissibility

[Revise the first two sentences of 5.4 as follows:]

An automation letter or a letter claimed at automation Enhanced Carrier Route saturation or high density prices may not bear a 5-digit or ZIP+4 barcode in the lower right corner (barcode clear zone). The piece may bear a 5-digit or ZIP+4 barcode in the address block only if an Intelligent Mail barcode with a delivery point routing code appears in the lower right corner.

* * * * *

[Delete current 5.6, DPBC Numeric Equivalent, in its entirety, and renumber current 5.7 through 5.11 as new 5.6 through 5.10.]

5.6 Barcode in Address Block

When the barcode is included as part of the address block:

* * * * *

[Revise renumbered items 5.6c through 5.6e as follows:]

c. The minimum clearance between the Intelligent Mail barcode and any information line above or below it within the address block must be at least 0.028 inch. The separation between the barcode and top line or bottom line of the address block must not exceed 0.625 (5/8) inch. The clearance between the leftmost and rightmost bars and any adjacent printing must be at least 0.125 (1/8) inch.

d. If a window envelope is used, the clearance between the leftmost and rightmost bars and any printing or window edge must be at least 0.125 (1/8) inch. The clearance between the Intelligent Mail barcode and the top and bottom window edges must be at least 0.028 inch. These clearances must be maintained during the insert's range of movement in the envelope. Address block windows on heavy letter mail *must* be covered. Covers for address block windows are subject to 5.10.

e. If an address label is used, a clear space of at least 0.125 (1/8) inch must be left between the barcode and the left and right edges of the address label. The clearance between the Intelligent Mail barcode and the top and bottom edges of the address label must be at least 0.028 inch.

* * * * *

[Revise the title of renumbered 5.7 as follows:]

5.7 Barcode on Insert in Barcode Window

If the barcode is printed on an insert to appear through a barcode window in the lower right corner of an envelope:

[Revise renumbered item 5.7a as follows:]

a. The envelope and window must meet the physical standards in 5.9 through 5.10.

* * * * *

[Revise renumbered item 5.7c as follows:]

c. When the insert showing through the window is moved to any of its limits inside the envelope, the entire barcode must remain within the barcode clear zone. In addition, a clear space must be maintained that is at least 0.125 (1/8) inch between the barcode and the left and right edges of the window, at least 0.1875 (3/16) inch between the barcode and the bottom edge of the mailpiece, and at least 0.028 inch between the barcode and the top edge of the window.

* * * * *

220 Priority Mail

223 Prices and Eligibility

* * * * *

3.0 Basic Standards for Priority Mail

* * * * *

3.2 Additional Standards for Critical Mail Letters

* * * Critical Mail letters also must:

* * * * *

[Revise item 3.2b as follows:]

b. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets address quality standards in 233.5.5 and 708.3.0.

* * * * *

230 First-Class Mail

233 Prices and Eligibility

* * * * *

4.0 Additional Eligibility Standards for Nonautomation First-Class Mail Letters

* * * * *

4.2 Barcodes

[Revise the text of 4.2 as follows:]

Any Intelligent Mail barcode on a mailpiece in nonautomation First-Class Mail mailings must be correct for the delivery address and meet the standards in 202.5.0, 708.3.0, and 708.4.0.

* * * * *

5.0 Additional Eligibility Standards for Automation First-Class Mail Letters

5.1 Basic Standards for Automation First-Class Mail Letters

All pieces in a First-Class Mail automation mailing must:

* * * * *

[Revise item 5.1e as follows:]

e. Bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 202.5.0 and 708.4.0.

* * * * *

5.5 Address Standards for Barcoded Pieces

* * * * *

[Revise the title and text of 5.5.3 as follows:]

5.5.3 Numeric Delivery Point Routing Code

The numeric equivalent to the delivery point routing code is formed by

adding two digits directly after the ZIP+4 code.

* * * * *

[Delete 5.6, Reply Cards and Envelopes Enclosed in Automation Price First-Class Mail, in its entirety.]

* * * * *

240 Standard Mail

243 Prices and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Letters

* * * * *

3.3 Additional Basic Standards for Standard Mail

Each Standard Mail mailing is subject to these general standards:

* * * * *

[Revise item 3.3i as follows:]

i. Any Intelligent Mail barcode on a mailpiece must be correct for the delivery address and meet the standards in 202.5.0, 708.3.0, and 708.4.0.

* * * * *

6.0 Additional Eligibility Standards for Enhanced Carrier Route Standard Mail Letters

6.1 General Enhanced Carrier Route Standards

* * * * *

6.1.2 Basic Eligibility Standards

All pieces in an Enhanced Carrier Route or Nonprofit Enhanced Carrier Route Standard Mail mailing must:

* * * * *

[Revise item 6.1.2d as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these address quality standards:

* * * * *

[Revise item 6.1.2g as follows:]

g. Meet the requirements for automation compatibility in 201.3.0 and bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code matching the delivery address and meeting the standards in 202.5.0 and 708.4.0, except as provided in 6.1.2h. Pieces prepared with a simplified address format are exempt from the automation-compatibility and barcode requirements. Letters entered under the full-service Intelligent Mail automation option also must meet the standards in 705.24.0.

* * * * *

6.4 High Density Enhanced Carrier Route Standards

[Revise the title and text of 6.4.1 as follows:]

6.4.1 Additional Eligibility Standards for High Density Prices

In addition to the eligibility standards in 6.1, high density letter-size mailpieces must be in a full carrier route tray or in a carrier route bundle of 10 or more pieces placed in a 5-digit (or 3-digit) carrier routes tray. Except for pieces with a simplified address, pieces that are not automation-compatible or not barcoded are mailable only at the nonautomation high density letter prices.

* * * * *

6.5 Saturation ECR Standards

[Revise the title and text of 6.5.1 as follows:]

6.5.1 Additional Eligibility Standards for Saturation Prices

In addition to the eligibility standards in 6.1, saturation letter-size mailpieces must be in a full carrier route tray or in a carrier route bundle of 10 or more pieces placed in a 5-digit (or 3-digit) carrier tray. Except for pieces with a simplified address, pieces that are not automation-compatible or not barcoded are mailable at nonautomation saturation letter prices.

* * * * *

7.0 Eligibility Standards for Automation Standard Mail

7.1 Basic Eligibility Standards for Automation Standard Mail

All pieces in a Regular Standard Mail or Nonprofit Standard Mail automation mailing must:

* * * * *

[Revise item 7.1d as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these address quality standards:

* * * * *

[Revise item 7.1e as follows:]

e. Bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 202.5.0 and 708.4.0.

* * * * *

7.5 Address Standards for Barcoded Pieces

* * * * *

[Revise the title and text of 7.5.3 as follows:]

7.5.3 Numeric Delivery Point Routing Code

The numeric equivalent to the delivery point routing code is formed by adding two digits directly after the ZIP+4 code.

* * * * *

[Delete 7.6, Enclosed Reply Cards and Envelopes, in its entirety.]

[Renumber current 7.7 as new 7.6.]

* * * * *

300 Commercial Mail Flats

* * * * *

302 Elements on the Face of a Mailpiece

* * * * *

2.0 Address Placement

* * * * *

2.4 Type Size and Line Spacing

* * * These additional standards apply to automation pieces:

* * * * *

[Revise item 2.4c as follows:]

c. For pieces that bear an Intelligent Mail barcode with a delivery point routing code under 708.4.3, mailers may print the delivery address in a minimum of 6-point type (each character must be at least 0.065 inch high) if all capital letters are used.

* * * * *

5.0 Barcode Placement

[Revise the title and text of 5.1 as follows:]

5.1 Barcode Placement for Flats

On any flat-size piece claimed at automation prices, the piece may bear one Intelligent Mail barcode. The barcode may be anywhere on the address side as long as it is at least ⅛ inch from any edge of the piece. The portion of the surface of the piece on which the barcode is printed must meet the barcode dimensions and spacing requirements in 708.4.2.5, and the reflectance standards in 708.4.4. Intelligent Mail barcodes are subject to standards in 708.4.3.2. POSTNET barcodes must not appear on the address side of any automation flat, but a POSTNET barcode (under 708.4.0) may appear on the address side of any nonautomation flat. Other non-USPS barcodes may appear on the address side of a flat if the barcode format is not discernable to automated postal equipment.

* * * * *

[Delete current 5.2, Applying One Barcode, and 5.3, Applying Second Barcode, in their entirety.]

[Renumber current 5.4 through 5.7 as new 5.2 through 5.5.]

5.2 5-Digit and ZIP+4 Barcodes

[Revise the text of renumbered 5.2 as follows:]

An automation flat-size piece must not bear a 5-digit or a ZIP + 4 barcode.

[Revise the title and text of renumbered 5.3 as follows:]

5.3 Delivery Point Routing Code Numeric Equivalent

In automation mailings only, the numbers corresponding to the delivery point routing code may appear in the delivery address. If read from left to right: a correct numeric equivalent consists of five digits, a hyphen, and seven digits.

5.4 Barcode in Address Block

When an Intelligent Mail barcode is included as part of the address block:

* * * * *

[Revise renumbered items 5.4c through 5.4e as follows:]

c. The minimum clearance between the barcode and any information line above or below it within the address block must be at least 0.028 inch, and the separation between the barcode and top line or bottom line of the address block must not exceed 0.625 (5/8) inch. The clearance between the leftmost and rightmost bars and any adjacent printing must be at least 0.125 (1/8) inch.

d. If a window envelope is used, the clearance between the leftmost and rightmost bars and any printing or window edge must be at least 0.125 (1/8) inch, and the clearance between the barcode and the top and bottom window edges must be at least 0.028 inch. These clearances must be maintained during the insert's range of movement in the envelope. Covers for address block windows are subject to 5.5. Window envelopes also must meet the specifications in 601.6.3.

e. If an address label is used, a clear space of at least 0.125 (1/8) inch must be left between the barcode and the left and right edges of the address label, and the clearance between the barcode and the top and bottom edges of the address label must be at least 0.028 inch.

* * * * *

320 Priority Mail

323 Prices and Eligibility

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3.0 Basic Standards for Priority Mail

* * * * *

3.2 Additional Standards for Critical Mail Flats

[Revise the introductory text of 3.2 as follows:]

Critical Mail, a category of Priority Mail, is available for barcoded, automation-compatible letters and barcoded, automation flats. With the exception of restricted mail as described in 601.8.0, any mailable matter may be mailed via Critical Mail. USPS-produced Critical Mail flat-size envelopes must be used for all Critical Mail flats. Flats may not exceed 13 ounces in weight. Critical Mail flats also must:

* * * * *

[Revise item 3.2b as follows:]

b. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets address quality standards in 333.5.5 and 708.3.0.

* * * * *

330 First-Class Mail

333 Prices and Eligibility

* * * * *

4.0 Additional Eligibility Standards for Nonautomation First-Class Mail Flats

* * * * *

4.2 Barcodes on Nonautomation First-Class Mail

[Revise the text of 4.2 as follows:]

Any barcode on a mailpiece in a First-Class Mail nonautomation flats mailing must be correct for the delivery address and meet the standards in 708.3.0 and 708.4.0.

* * * * *

5.0 Additional Eligibility Standards for Automation First-Class Mail Flats

5.1 Basic Standards for Automation First-Class Mail

All pieces in a First-Class Mail automation flats mailing must:

* * * * *

[Revise items 5.1d through e as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these address quality standards:

1. The address matching and coding standards in 5.5 and 708.3.0.

2. If an alternative addressing format is used, the additional standards in 602.3.0.

e. Bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 302.5.0 and 708.4.0, either on the piece or on an insert showing through a window.

* * * * *

5.5 Address Standards for Barcoded Pieces

* * * * *

[Revise the title and text of 5.5.3 as follows:]

5.5.3 Numeric Delivery Point Routing Code

A numeric equivalent of the delivery point routing code consists of five digits followed by a hyphen and six digits as specified in 708.4.2.4. The numeric equivalent is formed by adding two digits directly after the ZIP+4 code.

* * * * *

[Delete 5.6, Reply Cards and Envelopes Enclosed in Automation Price First-Class Mail, in its entirety.]

* * * * *

340 Standard Mail

343 Prices and Eligibility

* * * * *

3.0 Basic Standards for Standard Mail Flats

* * * * *

3.3 Additional Basic Standards for Standard Mail

Each Standard Mail mailing is subject to these general standards:

* * * * *

[Revise item 3.3i as follows:]

i. Any barcode on a mailpiece must be correct for the delivery address and meet the standards in 302.5.0, 708.3.0, and 708.4.0.

* * * * *

6.0 Additional Eligibility Standards for Enhanced Carrier Route Standard Mail Flats

6.1 General Enhanced Carrier Route Standards

* * * * *

6.1.2 Basic Eligibility Standards

All pieces in an Enhanced Carrier Route or Nonprofit Enhanced Carrier Route Standard Mail mailing must:

* * * * *

[Revise item 6.1.2d as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these address quality standards:

* * * * *

7.0 Additional Eligibility Standards for Automation Standard Mail Flats

7.1 Basic Eligibility Standards for Automation Standard Mail

All pieces in a Regular Standard Mail or Nonprofit Standard Mail automation mailing must:

* * * * *

[Revise item 7.1d as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these address quality standards:

* * * * *

[Revise item 7.1e as follows:]

e. Bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 302.5.0, and 708.4.0.

* * * * *

7.4 Address Standards for Barcoded Pieces

* * * * *

[Revise the title and text of 7.4.3 as follows:]

7.4.3 Numeric Delivery Point Routing Code

A numeric equivalent of the delivery point routing code consists of five digits followed by a hyphen and six digits as specified in 708.4.2. The numeric equivalent is formed by adding two digits directly after the ZIP+4 code.

* * * * *

[Delete 7.5, Enclosed Reply Cards and Envelopes, in its entirety.]

* * * * *

360 Bound Printed Matter

363 Prices and Eligibility

1.0 Prices and Fees for Bound Printed Matter

* * * * *

1.1.4 Barcoded Discount—Flats

[Revise the text of 1.1.4 as follows:]

For discount, see Notice 123—Price List. See 4.1 and 6.1 for eligibility information.

* * * * *

4.0 Price Eligibility for Bound Printed Matter Flats

4.1 Price Eligibility

* * * Price categories are as follows:

* * * * *

[Revise item 4.1d as follows:]

d. Barcoded Discount—Flats. The barcoded discount applies to BPM flats that meet the requirements for automation compatibility in 301.3.0 and bear an accurate Intelligent Mail barcode encoded with the correct delivery point routing code. See 6.1 for more information.

* * * * *

6.0 Additional Eligibility Standards for Barcoded Bound Printed Matter Flats

6.1 Basic Eligibility Standards for Barcoded Bound Printed Matter

[Revise the text of 6.1 as follows:]

The barcode discount applies only to BPM flat-size pieces that bear an Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 302.5.0 and 708.4.0. The pieces must be part of a nonpresorted price mailing of 50 or more flat-size pieces or part of a presort price mailing of at least 300 BPM flat-size pieces prepared under 705.8.0 and 365.7.0. Pieces may be optionally prepared under 705.14.0. The barcode discount is not available for flat-size pieces mailed at Presorted DDU prices or carrier route prices. To qualify for the barcode discount, the flat-size pieces must meet the standards in 301.3.0.

* * * * *

6.4 Address Standards for Barcode Discounts

* * * * *

[Revise the title and text of 6.4.3 as follows:]

6.4.3 Numeric Delivery Point Routing Code

A numeric equivalent of the delivery point routing code consists of five digits followed by a hyphen and six digits as specified in 708.4.0. The numeric equivalent is formed by adding two digits directly after the ZIP+4 code.

* * * * *

400 Commercial Parcels

* * * * *

402 Elements on the Face of a Mailpiece

* * * * *

4.0 General Barcode Placement for Parcels

* * * * *

[Revise the title and text of current 4.3 as follows:]

4.3 Intelligent Mail Barcodes and POSTNET Barcodes

Intelligent Mail barcodes and POSTNET barcodes do not meet barcode eligibility requirements for parcels and do not qualify for any barcode-related prices for parcels, but one barcode may be included only in the address block on a parcel, except on eVS parcels. An Intelligent Mail barcode or POSTNET barcode in the address block must be placed according to 302.5.4.

[Delete current 4.3.1, General Placement of POSTNET Barcodes, 4.3.2, POSTNET Barcode in Address Block, and 4.3.3, Window Cover, in their entirety.]

* * * * *

440 Standard Mail

443 Prices and Eligibility

* * * * *

4.0 Price Eligibility for Standard Mail

* * * * *

4.4 Surcharge

Unless prepared in carrier route or 5-digit/scheme containers, Standard Mail parcels are subject to a surcharge if:

* * * * *

[Revise item 4.4c as follows:]

c. The irregular parcels do not bear a GS1–128 routing barcode or an Intelligent Mail package barcode for the delivery address.

* * * * *

6.0 Additional Eligibility Standards for Enhanced Carrier Route Standard Mail Marketing Parcels

6.1 General Enhanced Carrier Route Standards

* * * * *

6.1.2 Basic Eligibility Standards

All pieces in an Enhanced Carrier Route or Nonprofit Enhanced Carrier Route mailing of Standard Mail Marketing parcels must:

* * * * *

[Revise item 6.1.2d as follows:]

d. Bear a delivery address that includes the correct ZIP Code, ZIP+4 code, or numeric equivalent to the delivery point routing code and which meets these addressing standards:

* * * * *

500 Additional Mailing Services

* * * * *

505 Return Services

1.0 Business Reply Mail (BRM)

* * * * *

1.3 Qualified Business Reply Mail (QBRM) Basic Standards

1.3.1 Description

Qualified Business Reply Mail (QBRM) is First-Class Mail that:

* * * * *

[Revise item 1.3.1d as follows:]

d. Is authorized to mail at QBRM prices and fees under 1.3.2. During the authorization process, the mailer is assigned a unique ZIP+4 code for each price category of QBRM to be returned under the system (one for card-price

pieces, one for letter-size pieces weighing 1 ounce or less, and one for letter-size pieces weighing over 1 ounce up to and including 2 ounces).

* * * * *

[Revise item 1.3.1f as follows:]

f. Bears the correct Intelligent Mail barcode that corresponds to the unique ZIP+4 code in the address on each piece distributed. The barcode must be correctly prepared under 1.9 and 708.4.0.

* * * * *

1.8 Format Elements

1.8.1 General

* * * * *

[Revise Exhibit 1.8.1 to depict an IMb rather than a POSTNET barcode.]

* * * * *

1.8.6 Delivery Address

The complete address (including the permit holder's name, delivery address, city, state, and BRM ZIP Code) must be printed directly on the piece, except as allowed under 1.7.5 or under item a below, subject to these conditions:

[Revise item 1.8.6a as follows:]

a. Preprinted labels with only delivery address information (including an Intelligent Mail barcode under 1.9) are permitted, but the permit holder's name and other required elements must be printed directly on the BRM piece.

* * * * *

1.9 Additional Standards for Letter-Size and Flat-Size BRM

[Revise the text of 1.9 to incorporate the current item 1.9a, including items a1 and a2, into the introductory text and revise the new introductory text as follows:]

In addition to the format standards in 1.8, QBRM letters and cards must be barcoded with an Intelligent Mail barcode. When an Intelligent Mail barcode is printed on any BRM pieces, it must contain the barcode ID, service type ID, and correct ZIP+4 routing code, as specified under 708.4.3. Permit holders must use the ZIP+4 codes and equivalent Intelligent Mail barcodes assigned by the USPS. The IMb must be placed on the address side of the piece and positioned as part of the delivery address block under 202.5.7 or within the barcode clear zone in the lower right corner of the piece if printed directly on the piece.

* * * * *

2.0 Permit Reply Mail (PRM)

* * * * *

2.3 Format Elements

2.3.1 General

[Revise exhibit 2.3.1 to include an IMb rather than a POSTNET barcode.]

* * * * *

2.3.6 Delivery Address

[Revise the text of 2.3.6 as follows:]

The complete address (including the permit holder's name, delivery address, city, state, and ZIP+4 code) must be printed on the piece. PRM pieces must bear an Intelligent Mail barcode encoded with the correct delivery point routing code, matching the delivery address and meeting the standards in 202.5.0 and 708.4.0.

* * * * *

700 Special Standards

* * * * *

708 Technical Standards

* * * * *

[Revise the title of 4.0 as follows:]

4.0 Standards for Intelligent Mail and POSTNET Barcodes

4.1 General

[Revise the text of 4.1 as follows:]

Intelligent Mail barcodes and POSTNET (Postal Numeric Encoding Technique) barcodes are USPS-developed methods to encode ZIP Code information on mail that can be read for sorting by automated machines. Intelligent Mail barcodes also encode other tracking information. POSTNET barcodes do not qualify for automation pricing.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–5050 Filed 3–1–12; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0850–201154(b); FRL–9639–7]

Approval and Promulgation of Implementation Plans; Georgia; Macon; Fine Particulate Matter 2002 Base Year Emissions Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the fine particulate matter ($PM_{2.5}$) 2002 base year emissions inventory, portion of the State Implementation Plan (SIP) revision submitted by the State of Georgia on August 17, 2009. The emissions inventory is part of the Macon, Georgia $PM_{2.5}$ attainment demonstration that was submitted for the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standards. This action is being taken pursuant to section 110 of the Clean Air Act. In the Rules Section of this **Federal Register,** EPA is approving Georgia's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Written comments must be received on or before April 2, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2011–0850, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2011–0850,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct

final rule which is published in the Rules Section of this **Federal Register.** A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: February 16, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–4995 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2012–0158; FRL–9639–6]

Approval, Disapproval and Promulgation of Implementation Plans; Nebraska; Regional Haze State Implementation Plan; Federal Implementation Plan for Best Available Retrofit Technology Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove a revision to the Nebraska State Implementation Plan (SIP) submitted by the State of Nebraska through the Nebraska Department of Environmental Quality (NDEQ) on July 13, 2011 that addresses regional haze for the first implementation period. This revision was submitted to address the requirements of the Clean Air Act (CAA or Act) and our rules that require States to prevent any future and remedy any existing man-made impairment of visibility in mandatory Class I areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to ensure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is proposing to approve a portion of this SIP revision as meeting certain requirements of the regional haze program and to partially approve and partially disapprove those portions addressing the requirements for best available retrofit technology (BART) and the long-term strategy (LTS). EPA is proposing a Federal Implementation Plan (FIP) relying on the Transport Rule to satisfy BART for sulfur dioxide (SO_2) at one source to address these issues.

DATES: *Comments.* Written comments must be received via the methods given in the Instructions for Comment Submittal section on or before April 2, 2012.

ADDRESSES: *Instructions for Comment Submittal.* Submit your comments, identified by Docket No. EPA–R07–OAR–2012–0158, by one of the following methods:

1. *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
2. *Email: wolfersberger.chris@epa.gov.*
3. *Mail:* Ms. Chrissy Wolfersberger, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101.
4. *Hand or Courier Delivery:* U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101; attention: Chrissy Wolfersberger. Such deliveries are accepted only between the hours of 8 a.m. and 5 p.m. weekdays, excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.
5. *Fax:* (913) 551–7864 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you are faxing comments).

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Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street, Kansas City, Kansas 66101. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 5 p.m. excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Chrissy Wolfersberger, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 N. 5th Street Kansas City, Kansas 66101, or by telephone at (913) 551–7864.

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

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I. What is the background for EPA's proposed actions?

A. The Regional Haze Problem

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles ($PM_{2.5}$) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust) and their precursors (e.g., SO_2, nitrogen oxides (NO_X), and in some cases, ammonia (NH_3) and volatile organic compounds (VOCs)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$ (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), which also impair visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ also can cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.[1]

Data from the existing visibility monitoring network, the ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness areas. The average visual range[2] in many Class I areas (i.e., national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. 64 FR 35714, 35715 (July 1, 1999). In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. *Id.*

B. Requirements of the CAA and EPA's Regional Haze Rule (RHR)

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas[3] which impairment results from manmade air pollution.'' CAA § 169A(a)(1). The terms ''impairment of visibility'' and ''visibility impairment'' are defined in the Act to include a reduction in visual range and atmospheric discoloration. CAA § 169A(g)(6). In 1980, we promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment'' (RAVI). 45 FR 80084 (December 2, 1980). These regulations represented the first phase in addressing visibility impairment. We deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address haze issues, and we promulgated regulations addressing regional haze in 1999. 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P. The regional haze rule (RHR) revised the existing visibility regulations to integrate into the regulations provisions addressing RH impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in our visibility protection regulations at 40 CFR 51.300–309. Some of the main elements of the regional haze requirements are summarized in section II. The requirement to submit a regional haze SIP applies to all 50 States, the District of Columbia and the Virgin Islands. States were required to submit the first implementation plan addressing visibility impairment no later than December 17, 2007. 40 CFR 51.308(b).

C. Roles of Agencies in Addressing Regional Haze

Successful implementation of the regional haze program will require long-term regional coordination among States, tribal governments and various Federal agencies. As noted above, pollution affecting the air quality in Class I areas can be transported over long distances, even hundreds of kilometers. Therefore, to address effectively the problem of visibility impairment in Class I areas, States need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction on the air quality in another.

Because the pollutants that lead to haze can originate from sources located across broad geographic areas, we have encouraged the States and tribes across the United States to address visibility impairment from a regional perspective. Five regional planning organizations (RPOs) were developed to address regional haze and related issues. The RPOs first evaluated technical information to better understand how their States and tribes impact Class I areas across the country, and then pursued the development of regional strategies to reduce emissions of PM and other pollutants that cause haze.

The State of Nebraska participated in the planning efforts of the Central Regional Air Planning Association (CENRAP), which is affiliated with the

[1] Eutrophication is defined as excessive richness of nutrients in a lake or other body of water, frequently due to runoff from the land, which causes a dense growth of plant life and death of animal life from lack of oxygen.

[2] Visual range is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky.

[3] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. *See* CAA section 162(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. *See* 44 FR 69122, November 30, 1979. The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. CAA section 162(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager'' (FLM). *See* CAA section 302(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

Central States Air Resource Agencies (CENSARA). CENRAP is an organization of States, tribes, Federal agencies and other interested parties that identifies visibility issues and develops strategies to address them. CENRAP is one of the five RPOs across the U.S. and includes the States and tribal areas of Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana. States were also required by 40 CFR 51.308(i) to coordinate with FLMs during the development of the State's strategies to address haze. FLMs include the U.S. Fish and Wildlife Service, the U.S. Forest Service, and the National Park Service.

II. What are the requirements for regional haze SIPs?

The following is a summary and basic explanation of the regulations covered under the RHR. See 40 CFR 51.308 for a complete listing of the regulations under which this SIP was evaluated.

A. The CAA and the Regional Haze Rule

CAA sections 110(l) and 110(a)(2) require revisions to a SIP to be adopted by a State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR Part 51, subpart F. These requirements include publication of notices by prominent advertisement in the relevant geographic area of a public hearing on proposed revisions, at least a 30-day public comment period, and the opportunity for a public hearing, and that the State, in accordance with its laws, submit the revision to the EPA for approval. Specific information on Nebraska's rulemaking, regional haze SIP development and public information process is included in Chapter 3, and Appendix 3, of the State of Nebraska regional haze SIP, which is included in the docket of this proposed rulemaking.

Regional haze SIPs must assure reasonable progress towards the national goal of achieving natural visibility conditions in Class I areas. Section 169A of the CAA and our implementing regulations require States to establish long-term strategies for making reasonable progress toward meeting this goal. Implementation plans must also give specific attention to certain stationary sources that were in existence on August 7, 1977, but were not in operation before August 7, 1962, and require these sources, where appropriate, to install BART controls for the purpose of eliminating or reducing visibility impairment. The specific regional haze SIP requirements are discussed in further detail below.

B. Determination of Baseline, Natural, and Current Visibility Conditions

The RHR establishes the deciview (dv) as the principal metric for measuring visibility. *See* 70 FR 39104. This visibility metric expresses uniform changes in the degree of haze in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Visibility expressed in deciviews is determined by using air quality measurements to estimate light extinction and then transforming the value of light extinction using a logarithmic function. The deciview is a more useful measure for tracking progress in improving visibility than light extinction itself because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility of one deciview.[4]

The deciview is used in expressing Reasonable Progress Goals (RPGs) (which are interim visibility goals towards meeting the national visibility goal), defining baseline, current, and natural conditions, and tracking changes in visibility. The regional haze SIPs must contain measures that ensure ''reasonable progress'' toward the national goal of preventing and remedying visibility impairment in Class I areas caused by anthropogenic air pollution by reducing anthropogenic emissions that cause haze. The national goal is a return to natural conditions, i.e., anthropogenic sources of air pollution would no longer impair visibility in Class I areas.

To track changes in visibility over time at each of the 156 Class I areas covered by the visibility program (40 CFR 81.401–437), and as part of the process for determining reasonable progress, States must calculate the degree of existing visibility impairment at each Class I area at the time of each regional haze SIP submittal and periodically review progress every five years midway through each 10-year implementation period. To do this, the RHR requires States to determine the degree of impairment (in deciviews) for the average of the 20 percent least impaired (''best'') and 20 percent most impaired (''worst'') visibility days over a specified time period at each of their Class I areas. In addition, States must also develop an estimate of natural visibility conditions for the purpose of comparing progress toward the national goal. Natural visibility is determined by estimating the natural concentrations of pollutants that cause visibility impairment and then calculating total light extinction based on those estimates. We have provided guidance to States regarding how to calculate baseline, natural and current visibility conditions.[5]

For the first regional haze SIPs that were due by December 17, 2007, ''baseline visibility conditions'' were the starting points for assessing ''current'' visibility impairment. Baseline visibility conditions represent the degree of visibility impairment for the 20 percent least impaired days and 20 percent most impaired days for each calendar year from 2000 to 2004. Using monitoring data for 2000 through 2004, States are required to calculate the average degree of visibility impairment for each Class I area, based on the average of annual values over the five-year period. The comparison of initial baseline visibility conditions to natural visibility conditions indicates the amount of improvement necessary to attain natural visibility, while the future comparison of baseline conditions to the then current conditions will indicate the amount of progress made. In general, the 2000–2004 baseline period is considered the time from which improvement in visibility is measured.

C. Determination of Reasonable Progress Goals

The vehicle for ensuring continuing progress towards achieving the natural visibility goal is the submission of a series of regional haze SIPs from the States that establish two RPGs (i.e., two distinct goals, one for the ''best'' and one for the ''worst'' days) for every Class I area for each (approximately) 10-year implementation period. *See* 70 FR 3915; *see also* 64 FR 35714. The RHR does not mandate specific milestones or rates of progress, but instead calls for States to establish goals that provide for ''reasonable progress'' toward achieving natural (i.e., ''background'') visibility conditions. In setting RPGs, States must provide for an improvement in visibility for the most impaired days over the (approximately) 10-year period of the SIP, and ensure no degradation in visibility for the least impaired days over the same period. *Id.*

[4] The preamble to the RHR provides additional details about the deciview. 64 FR 35714, 35725 (July 1, 1999).

[5] *Guidance for Estimating Natural Visibility Conditions Under the Regional Haze Rule,* September 2003, EPA–454/B–03–005, *available* at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_envcurhr_gd.pdf,* (hereinafter referred to as ''our 2003 Natural Visibility Guidance''); and *Guidance for Tracking Progress Under the Regional Haze Rule,* (EPA–454/B–03–004, September 2003, *available* at *http://www.epa.gov/ttncaaa1/t1/memoranda/rh_tpurhr_gd.pdf,* (hereinafter referred to as our ''2003 Tracking Progress Guidance'').

States have significant discretion in establishing RPGs, but are required to consider the following factors established in section 169A of the CAA and in our RHR at 40 CFR 51.308(d)(1)(i)(A): (1) The costs of compliance; (2) the time necessary for compliance; (3) the energy and non-air quality environmental impacts of compliance; and (4) the remaining useful life of any potentially affected sources. States must demonstrate in their SIPs how these factors are considered when selecting the RPGs for the best and worst days for each applicable Class I area. States have considerable flexibility in how they take these factors into consideration, as noted in our reasonable progress guidance.[6] In setting the RPGs, States must also consider the rate of progress needed to reach natural visibility conditions by 2064 (referred to hereafter as the ''uniform rate of progress'' or the ''glidepath'') and the emission reduction measures needed to achieve that rate of progress over the 10-year period of the SIP. Uniform progress towards achievement of natural conditions by the year 2064 represents a rate of progress, which States are to use for analytical comparison to the amount of progress they expect to achieve. In setting RPGs, each State with one or more Class I areas (''Class I State'') must also consult with potentially ''contributing States,'' i.e., other nearby States with emission sources that may be affecting visibility impairment at the Class I State's areas. 40 CFR 51.308(d)(1)(iv).

States without Class I areas are required to submit regional haze SIPs to address their contribution to visibility impairment. As per the previous discussion in this proposed rulemaking, the ability of the long range transport of pollutants to affect visibility conditions in areas makes it imperative that each State evaluate how emissions from within its borders affect visibility impairment in Class I areas in other States.

D. Best Available Retrofit Technology

Section 169A of the CAA directs States to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources with the potential to emit greater than 250 tons or more of any pollutant in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the Act requires States to revise their SIPs to contain such measures as may be necessary to make reasonable progress towards the natural visibility goal, including a requirement that certain categories of existing major stationary sources[7] built between 1962 and 1977 procure, install, and operate the ''best available retrofit technology'' as determined by the State or us in the case of a plan promulgated under section 110(c) of the CAA. Under the RHR, States are directed to conduct BART determinations for such ''BART-eligible'' sources that may be anticipated to cause or contribute to any visibility impairment in a Class I area. Rather than requiring source-specific BART controls, States also have the flexibility to adopt an emissions trading program or other alternative program as long as the alternative provides greater reasonable progress towards improving visibility than BART.

We promulgated regulations addressing regional haze in 1999, 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P.[8] These regulations require all States to submit implementation plans that, among other measures, contain either emission limits representing BART for certain sources constructed between 1962 and 1977, or alternative measures that provide for greater reasonable progress than BART. 40 CFR 51.308(e).

On July 6, 2005, we published the *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR Part 51 (''BART Guidelines'') to assist States in determining which of their sources should be subject to the BART requirements and in determining appropriate emission limits for each applicable source. 70 FR 39104. In making a BART determination for a fossil fuel-fired electric generating plant with a total generating capacity in excess of 750 megawatts, a State must use the approach set forth in the BART Guidelines. A State is encouraged, but not required, to follow the BART Guidelines in making BART determinations for other types of sources.

The process of establishing BART emission limitations can be logically broken down into three steps: first, States identify those sources which meet the definition of ''BART-eligible source'' set forth in 40 CFR 51.301;[9] second, States determine whether such sources ''emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area'' (a source which fits this description is ''subject to BART,'') and; third, for each source subject to BART, States then identify the appropriate type and the level of control for reducing emissions.

States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are SO_2, NO_X, and PM. States should use their best judgment in determining whether volatile organic compounds (VOC) or ammonia compounds impair visibility in Class I areas.

Under the BART Guidelines, States may select an exemption threshold value for their BART modeling, below which a BART-eligible source would not be expected to cause or contribute to visibility impairment in any Class I area. The State must document this exemption threshold value in the SIP and must state the basis for its selection of that value. Any source with emissions that model above the threshold value would be subject to a BART determination review. The BART Guidelines acknowledge varying circumstances affecting different Class I areas. States should consider the number of emission sources affecting the Class I areas at issue and the magnitude of the individual sources' impacts. Any exemption threshold set by the State should not be higher than 0.5 dv (70 FR 39161).

In their SIPs, States must identify potential BART sources, described as ''BART-eligible sources'' in the RHR, and document their BART control determination analyses. The term ''BART-eligible source'' used in the BART Guidelines means the collection of individual emission units at a facility that together comprises the BART-eligible source. In making BART determinations, section 169A(g)(2) of the CAA requires that States consider the following factors: (1) The costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the

[6] *Guidance for Setting Reasonable Progress Goals under the Regional Haze Program,* June 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1).

[7] The set of ''major stationary sources'' potentially subject to BART are listed in CAA section 169A(g)(7).

[8] In *American Corn Growers Ass'n* v. *EPA,* 291 F.3d 1 (DC Cir. 2002), the U.S Court of Appeals for the District of Columbia Circuit issued a ruling vacating and remanding the BART provisions of the regional haze rule. In 2005, we issued BART guidelines to address the court's ruling in that case. *See* 70 FR 39104 (July 6, 2005).

[9] BART-eligible sources are those sources that have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were put in place between August 7, 1962 and August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories.

source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. States are free to determine the weight and significance to be assigned to each factor. *See* 40 CFR 51.308(e)(1)(ii).

A regional haze SIP must include source-specific BART emission limits and compliance schedules for each source subject to BART. Once a State has made its BART determination, the BART controls must be installed and in operation as expeditiously as practicable, but no later than five years after the date of our approval of the regional haze SIP. *See* CAA section 169(g)(4) and 40 CFR 51.308(e)(1)(iv). In addition to what is required by the RHR, general SIP requirements mandate that the SIP must also include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART controls on the source. *See* CAA section 110(a).

As noted above, the RHR allows States to implement an alternative program in lieu of BART so long as the alternative program can be demonstrated to achieve greater reasonable progress toward the national visibility goal than would BART. Under regulations issued in 2005 revising the regional haze program, EPA made just such a demonstration for the Clean Air Interstate Rule (CAIR). *See* 70 FR 39104 (July 6, 2005). EPA's regulations provide that States participating in the CAIR cap-and trade program under 40 CFR Part 96 pursuant to an EPA-approved CAIR SIP or which remain subject to the CAIR FIP in 40 CFR Part 97 need not require affected BART-eligible electric generating units (EGUs) to install, operate, and maintain BART for emissions of SO_2 and NO_X. *See* 40 CFR 51.308(e)(4). Because CAIR did not address direct emissions of PM, States were still required to conduct a BART analysis for PM emissions from EGUs subject to BART for that pollutant. Challenges to CAIR, however, resulted in the remand of the rule to EPA. *See North Carolina* v. *EPA,* 550 F.3d 1176 (DC Cir. 2008). EPA issued a new rule in 2011 to address the interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule,'' also known as the Cross-State Air Pollution Rule). On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal than would BART in the States in which the Transport Rule applies. 76 FR 82219. Based on this proposed finding, EPA also proposed to revise the RHR to allow States to substitute participation in the trading programs under the Transport Rule for source-specific BART. EPA has not taken final action on that rule. Also on December 30, 2011, the Circuit Court of Appeals for the District of Columbia issued an order addressing the status of the Transport Rule and CAIR in response to motions filed by numerous parties seeking a stay of the Transport Rule pending judicial review. In that order, the DC Circuit stayed the Transport Rule pending the court's resolutions of the petitions for review of that rule in *EME Homer Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The court also indicated that EPA is expected to continue to administer the CAIR in the interim until the court rules on the petitions for review of the Transport Rule.

E. Long-Term Strategy (LTS)

Consistent with the requirement in section 169A(b) of the CAA that States include in their regional haze SIP a ten to fifteen year strategy for making reasonable progress, section 51.308(d)(3) of the RHR requires that States include a LTS in their regional haze SIPs. The LTS is the compilation of all control measures a State will use during the implementation period of the specific SIP submittal to meet any applicable RPGs. The LTS must include ''enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals'' for all Class I areas within, or affected by emissions from, the State. 40 CFR 51.308(d)(3).

When a State's emissions are reasonably anticipated to cause or contribute to visibility impairment in a Class I area located in another State, the RHR requires the impacted State to coordinate with the contributing States in order to develop coordinated emissions management strategies. 40 CFR 51.308(d)(3)(i). In such cases, the contributing State must demonstrate that it has included in its SIP all measures necessary to obtain its share of the emission reductions needed to meet the RPGs for the Class I area. The RPOs have provided forums for significant interstate consultation, but additional consultations between States may be required to sufficiently address interstate visibility issues. This is especially true where two States belong to different RPOs.

States should consider all types of anthropogenic sources of visibility impairment in developing their LTS, including stationary, minor, mobile, and area sources. At a minimum, States must describe how each of the following seven factors listed below are taken into account in developing their LTS: (1) Emission reductions due to ongoing air pollution control programs; (2) measures to mitigate the impacts of construction activities; (3) emissions limitations and schedules for compliance to achieve the RPG; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the State for these purposes; (6) enforceability of emissions limitations and control measures; (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the LTS. 40 CFR 51.308(d)(3)(v).

F. Coordinating Regional Haze and Reasonably Attributable Visibility Impairment Long-Term Strategy

As part of the RHR, EPA revised 40 CFR 51.306(c), regarding the LTS for RAVI, to require that the RAVI plan must provide for a periodic review and SIP revision not less frequently than every three years until the date of submission of the State's first plan addressing regional haze visibility impairment in accordance with 40 CFR 51.308(b) and (c). The State must revise its plan to provide for review and revision of a coordinated LTS for addressing RAVI and regional haze on or before this date. It must also submit the first such coordinated LTS with its first regional haze SIP. Future coordinated LTSs, and periodic progress reports evaluating progress toward RPGs, must be submitted consistent with the schedule for SIP submission and periodic progress reports set forth in 40 CFR 51.308(f) and 51.308(g), respectively. The periodic review of a State's LTS must be submitted to EPA as a SIP revision and report on both regional haze and RAVI impairment.

G. Monitoring Strategy and Other SIP Requirements

Section 51.308(d)(4) of the RHR includes the requirement for a monitoring strategy for measuring, characterizing, and reporting of visibility impairment that is representative of all Class I areas within the State. The strategy must be coordinated with the monitoring strategy required in section 51.305 for RAVI. Compliance with this requirement may be met through ''participation'' in the Interagency Monitoring of Protected Visual Environments (IMPROVE) network, i.e., review and use of monitoring data from the network. The monitoring strategy is due with the first regional haze SIP, and

it must be reviewed every five (5) years. The monitoring strategy must also provide for additional monitoring sites if the IMPROVE network is not sufficient to determine whether RPGs will be met.

The SIP must also provide for the following:

- Procedures for using monitoring data and other information in a State with mandatory Class I areas to determine the contribution of emissions from within the State to haze visibility impairment at Class I areas both within and outside the State;
- For a State with no mandatory Class I areas, procedures for using monitoring data and other information to determine the contribution of emissions from within the State to regional haze visibility impairment at Class I areas in other States;
- Reporting of all visibility monitoring data to the Administrator at least annually for each Class I area in the State, and where possible, in electronic format;
- Developing a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area. The inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions, along with a commitment to update the inventory periodically; and
- Other elements, including reporting, recordkeeping, and other measures necessary to assess and report on visibility.

The RHR requires control strategies to cover an initial implementation period extending to the year 2018, with a comprehensive reassessment and revision of those strategies, as appropriate, every ten years thereafter. Periodic SIP revisions must meet the core requirements of section 51.308(d) with the exception of BART. The requirement to evaluate sources for BART applies only to the first regional haze SIP. Facilities subject to BART must continue to comply with the BART provisions of section 51.308(e), as noted above. Periodic SIP revisions will assure that the statutory requirement of reasonable progress will continue to be met.

H. Consultation With States and Federal Land Managers

The RHR requires that States consult with other States and FLMs before adopting and submitting their SIPs. 40 CFR 51.308(i). States must provide FLMs an opportunity for consultation, in person and at least sixty days prior to holding any public hearing on the SIP. This consultation must include the opportunity for the FLMs to discuss their assessment of impairment of visibility in any Class I area and to offer recommendations on the development of the RPGs and on the development and implementation of strategies to address visibility impairment. Further, a State must include in its SIP a description of how it addressed any comments provided by the FLMs. Finally, a SIP must provide procedures for continuing consultation between the State and FLMs regarding the State's visibility protection program, including development and review of SIP revisions, five-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

III. Our Analysis of Nebraska's Regional Haze SIP

The State of Nebraska submitted a regional haze SIP revision to EPA on July 13, 2011 for approval into the Nebraska SIP. The following is an evaluation of that submission. See the Technical Support Document (TSD) for this proposal for a more comprehensive technical analysis.

A. Public Notice

EPA is proposing to find that the State of Nebraska has met the requirements of the CAA which require that the State adopt a SIP after reasonable notice and public hearing. EPA also believes that the State has met the specific procedural requirements for SIP revisions promulgated at 40 CFR part 51, subpart F and appendix V. The State met these requirements by publishing notices of the public hearing, an opportunity for a public hearing, and at least a thirty-day public comment period by prominent advertisement, and Nebraska, in accordance with its laws, submitted the revisions on July 13, 2011, to EPA for approval. Specific information on Nebraska's rulemaking, regional haze SIP development and public information process is included in Chapter 3, and Appendix 3, of the State of Nebraska's regional haze SIP, which is included in the docket of this proposed rulemaking.

B. Affected Class I Areas

Although there are no Class I areas within the State of Nebraska, the State is still required to identify those Class I areas which may be affected by emissions from Nebraska sources. Nebraska participated in the planning efforts of CENRAP, an RPO including nine States—Nebraska, Iowa, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana. CENRAP and its contractors provided air quality modeling to the States to help them determine whether sources located within the State can be reasonably expected to cause or contribute to visibility impairment in Class I areas. The modeling conducted relied on baseline year (2002) and future planning year (2018) emissions inventories that were prepared with participation from each of the CENRAP States. The modeling was based on PM Source Apportionment Technology (PSAT) for the Comprehensive Air Quality Model with extensions (CAMx) photochemical model.

According to the PSAT modeling, contributions from Nebraska sources for the worst 20 percent days were highest at the South Dakota Class I areas. For the 2002 baseline year, Nebraska sources were projected to contribute 7.81 percent of visibility impairment at Badlands, and 7 percent at Wind Cave. In 2018, the projected contribution was reduced to 5.89 percent and 5.24 percent, respectively. However, it is critical to note that the 2018 projections were developed assuming presumptive levels of SO_2 control on Nebraska BART sources, which ultimately the State did not require. For that reason, it is likely that Nebraska sources will have a somewhat larger contribution to 2018 visibility impairment than what the modeling predicted.

Nebraska's contribution to all other Class I areas was considerably less, and in no case greater than 1.9 percent in 2002 according to the PSAT modeling.[10]

C. Baseline and Natural Visibility Conditions

States that host Class I areas are required to estimate the baseline, natural and current visibility conditions of those Class I areas. Nebraska does not host a Class I area, therefore, it is not required to estimate these metrics.

D. Reasonable Progress Goals

The RHR requires States and tribes to establish a RPG for each Class I area within the State. Nebraska does not have a Class I area within the State and therefore is not required to establish a RPG. States hosting Class I areas are required to establish RPGs, and to make assessments regarding whether emission

[10] Other Class I areas examined include Great Sand Dunes National Park and Rocky Mountain National Park in Colorado; Boundary Waters Wilderness Area and Voyagers National Park in Minnesota; Guadalupe Mountains National Park and Big Bend National Park in Texas; Wichita Mountains Wilderness Area in Oklahoma; Hercules-Glades Wilderness Area and Mingo Wilderness Area in Missouri; and Caney Creek Wilderness Area and Upper Buffalo Wilderness Area in Arkansas.

reductions are needed from sources in Nebraska in order to meet their RPG. Specific State goals and Nebraska's effect on meeting them are described in further detail in the LTS consultation section, below.

E. Long-Term Strategy

States must submit a long-term strategy that addresses regional haze visibility impairment for each Class I area within it and for each Class I area located outside it which may be affected by emissions from it. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by States having Class I areas.

Nebraska's LTS for the first implementation period addresses the emissions reductions from Federal, State, and local controls that take effect in the State from the end of the baseline period until 2018. As described elsewhere in this notice, the changes in point, area, and mobile source emissions over the first implementation period (through 2018) were taken into account by CENRAP and the State in developing the emission inventory for 2018. Specifically, Nebraska considered the following Federal and State control measures when developing its LTS:

- CAIR. Although the State of Nebraska was not included in the CAIR rulemaking, the rule was a major component in the underlying assumptions used to determine source apportionment because of the reductions expected in neighboring States.
- Federal mobile source standards
- Tier 2 vehicle standards and low sulfur fuel requirements
- Locomotive and marine engine standards
- Small spark-ignition engine standards
- National Emission Standards for Hazardous Air Pollutants (NESHAP) Maximum Achievable Control Technology (MACT) standards
- Nebraska's Prevention of Significant Deterioration (PSD) construction permitting program. Nebraska notes that the visibility protection provisions of PSD found at 40 CFR 52.21(o) have been incorporated into Title 129—Nebraska Air Quality Regulations at Chapter 19. Section 40 CFR 52.21(p) requires notification and consultation with FLMs of Class I areas which may be affected by emissions from a new source; these requirements under have been incorporated by reference into Title 129 in Chapter 19.

Nebraska has fugitive dust regulations in Nebraska Title 129—Chapter 32, which includes a provision applicable to construction activities. The rule requires the use of reasonable measures such as paving, cleaning, application of water, planting and maintenance of ground cover, and/or application of dust-free surfactants to prevent dust from becoming airborne such that it remains visible beyond the property boundary. Nebraska estimates that construction activities are not expected to cause a significant impact to visibility, and did not require any additional measures to mitigate the impacts of construction activities for purposes of visibility improvement.

Nebraska also has regulations that address smoke management for agricultural and forestry management burns. Title 129—Chapter 30 is a ban on open burning with some direct exceptions that include agriculture operations, parks management, and fires set for training purposes. Other types of exceptions are subject to approval by the NDEQ and the local fire authority. For purposes of forestry or land management, such burning is allowed provided it is conducted by a limited set of organizations approved by NDEQ. Nebraska contends that, based on the minimal impacts on nearby Class I areas from burning, a more stringent smoke management plan is not needed for purposes of visibility protection at this time.

The above programs are fully enforceable, provide for the mitigation of new source impacts through new source permitting programs, and reflect appropriate consideration of current programs and prospective changes in emissions. Enforceability of Nebraska's BART control measures are more fully described below in section III.F.

a. Consultation on Other States' RPGs

Where Nebraska has emissions that are reasonably anticipated to contribute to visibility impairment in any Class I area located in another State or States, it must consult with the other State(s) in order to develop coordinated emission management strategies. If Nebraska causes or contributes to impairment in a Class I area, it must demonstrate that it has included in its SIP all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area.

As mentioned previously, Nebraska participated in the CENRAP planning process, which provided the primary venue for State consultation and coordination on emission management strategies. Nebraska also asserts that it notified the States of South Dakota, Oklahoma, Missouri and Colorado while its draft BART permits were open for public comment, proposing only control for NO_X at the three BART units in the State. It should be noted that although Nebraska participated as a member State in CENRAP, the greatest impacts from Nebraska sources occur in a Western Regional Area Partnership (WRAP) State—South Dakota.

South Dakota

Nebraska asserts that sources in the State have a ''minimal'' visibility impact on all Class I areas, and points out in its SIP that no State asked Nebraska for specific emission reductions in order to meet its RPGs. We disagree with the characterization of Nebraska's contribution as minimal, as source-specific CALPUFF modeling shows a significant visibility impact from GGS on the South Dakota Class I areas.[11] [12]

Furthermore, we note that South Dakota's reasonable progress goals, which are proposed for approval by EPA at the time of this writing, achieve less visibility improvement than the uniform rate of progress for the first implementation period. The reasonable progress goals for the 20 percent worst days fall short of the uniform rate of progress by 1.28 dv for Badlands and 1.34 dv at Wind Cave.[13] The modeling used to estimate achievement of these goals assumed that the presumptive level of SO_2 BART controls would be installed on Nebraska sources. Nebraska did not go on to require BART-level controls, therefore, South Dakota may be even further away from meeting its RPGs than what the modeling predicted. As described in detail in section III. F. d. of this notice, we propose to disapprove Nebraska's SO_2 BART determination for GGS. We also propose to disapprove Nebraska's LTS insofar as it relied on this deficient BART determination. These issues are addressed through reliance on the Transport Rule as an alternative to BART for SO_2 emissions from the GGS units.

Colorado

In comment letters dated January 21, 2011, and June 23, 2009, the Colorado Department of Public Health and Environment (CDPHE) notes that according to source-specific CALPUFF modeling, GGS has an impact of greater than one deciview on Rocky Mountain

[11] GGS's maximum visibility impact at Badlands was 3.12 dv in 2003, and 2.59 dv at Wind Cave in 2002.

[12] Source-specific CALPUFF modeling for Nebraska City Station and Gerald Gentleman Station is in appendix 10.5 of the SIP.

[13] 76 FR 76646 (December 8, 2011).

National Park (RMNP). CDPHE questioned why Nebraska would propose no SO_2 controls for such a large power plant, and requested that Nebraska take another look at the cost assumptions made for Flue Gas Desulfurization (FGD) controls. They express that $2,700 per ton for control of SO_2 is reasonable, and that the cost is likely even lower.

CDPHE commented that it understands Nebraska's concerns about water availability in western Nebraska, as the State of Colorado is also in an arid region. They state that all large EGUs in Colorado have installed (or are in the process of installing) FGD controls to reduce SO_2 emissions.

CDPHE goes on to note that the most recent WRAP modeling, which used the CMAQ model, predicts that RMNP is far short of its uniform rate of progress. CDPHE asked that Nebraska reconsider SO_2 controls at GGS under the RHR to help Colorado make progress at RMNP.

Nebraska denies this request in their SIP on the basis that WRAP's modeling did not distinguish Nebraska's impact from the other CENRAP States. Nebraska makes the argument that a wind rose from RMNP indicates that the wind pattern is rarely from the direction of Nebraska.

We share Colorado's concerns about the SO_2 BART determination for GGS, and as described above, we are proposing to disapprove this deficient BART determination and Nebraska's LTS insofar as the State relied on it to meet the LTS requirements. We propose that these issues will be addressed through reliance on the Transport Rule as an alternative to BART for SO_2 emissions from the GGS units.

Minnesota

Boundary Waters, Voyageurs, Seney, and Isle Royale are referred to as the Northern Midwest Class I areas. As identified in the document, ''Reasonable Progress for Class I Areas in the Northern Midwest—Factor Analysis,'' [14] the Lake Michigan Air Directors Consortium (LADCO) identified the following States contributing to Class I area visibility impairment in the LADCO region: Michigan, Minnesota, and Wisconsin, as well as surrounding States, such as the Dakotas, Iowa, Missouri, Illinois, and Indiana. Nebraska does not significantly contribute to visibility impairment at the Minnesota Class I areas according to PSAT modeling. Through RPO consultation, Minnesota determined that no additional emissions reductions from Nebraska sources were needed to meet Class I area visibility improvement goals at this point in time. EPA believes that this satisfies the requirement for consultation between these States.

Oklahoma

As identified in the document titled, ''Oklahoma's Wichita Mountains Wilderness Area Regional Haze Planning,'' [15] Oklahoma identified Nebraska in its area of influence for NO_X. Nebraska was initially invited to participate in the Oklahoma consultation process. Nebraska states that it provided copies of the draft BART permits to the State of Oklahoma while on public notice, which only proposed NO_X controls on OPPD and NPPD. Oklahoma did not provide any comment, or request additional controls for the initial planning period. EPA believes that the consultation requirement between these States has been satisfied.

Missouri and Arkansas

Caney Creek, Upper Buffalo, Hercules Glades, and Mingo are referred to as the central Class I areas. As identified in the document, ''Central Class I Areas Consultation Plan,'' [16] CENRAP identified Nebraska in the area of influence for NO_X at the central Class I areas. The central States determined whether a State was a major contributor based on an analysis of four approaches: trajectories, areas of influence, PSAT, and Q/d. If a State was found to be a major contributor in at least 3 of the 4 approaches, the central States concluded it was appropriate to include that State as a major contributor. Nebraska was found to be a contributor based upon the area of influence only, therefore it was excluded as a major contributing State to visibility impairment in Class I areas in Missouri and Arkansas. EPA believes that Nebraska's consultation requirement with these States was satisfied.

F. Best Available Retrofit Technology

States must submit an implementation plan containing emission limitations representing BART and schedules for compliance with BART for each BART-eligible source that may reasonably be anticipated to cause or contribute to any impairment of visibility in any Class I area.

a. BART-Eligible Sources

States must identify all BART-eligible sources in their SIP. Sources are subject to BART if: One or more emissions units at the facility belong to one of the twenty-six BART source categories [17]; the unit did not operate before August 7, 1962, but was in existence on August 7, 1977; and the unit has the potential to emit 250 tons per year or more of any visibility-impairing pollutant, which Nebraska determined to be SO_2, NO_X, and PM.

The BART Guidelines direct States to exercise judgment in deciding whether VOCs and ammonia (NH_3) impair visibility in their Class I area(s). 70 FR 391160. CENRAP performed analyses which demonstrated that anthropogenic emissions of VOC and NH_3 do not significantly impair visibility in the CENRAP region. Therefore, Nebraska did not consider NH_3 among visibility-impairing pollutants and did not further evaluate NH_3 and VOC emissions sources for potential controls under BART or reasonable progress.

Nebraska used its database to identify facilities with emission units in one or more of the twenty six BART categories. Nebraska then conducted a survey to identify units within these source categories with potential emissions of 250 tons per year or more for any visibility-impairing pollutant from any unit that was in existence on August 7, 1977, and began operation after August 7, 1962. The sources identified by Nebraska are listed in Table 1. More detailed information regarding each facility's BART-eligible units may be found in Appendix 10.2 of the SIP.

EPA proposes to find that Nebraska adequately identified all BART-eligible sources within the State.

[14] Appendix 11.1 of the SIP

[15] Appendix 11.3 of the SIP.

[16] Appendix 11.2 of the SIP.

[17] BART guidelines, 40 CFR Part 51 Appendix Y.

TABLE 1—FACILITIES WITH BART-ELIGIBLE UNITS IN NEBRASKA

Source category	Facility	Location	Number of emission units identified by date	Potential to emit (date-eligible units, tons per year)		
				PM	NO_X	SO_2
Fossil-fuel fired steam electric plants of more than 250 million BTU per hour heat input.	NPPD Gerald Gentlemen Station.	Sutherland	2	4,460	46,200	79,200
	OPPD Nebraska City.	Nebraska City	1	43,792	19,040	45,696
	OPPD North Omaha Station.	Omaha	2	910	14,420	34,283
	NPPD Sheldon Station.	Hallam	2	908	6,020	15,100
	CW Burdick Generating Station.	Grand Island	2	997	1,923	10,304
	Lon D. Wright Power Plant.	Fremont	2	97	3,784	3,035
	Don Henry Power Center.	Hastings	1	19	1,360	780
	North Denver Station.	Hastings	1	14	426	853
Portland cement plant	Ash Grove Cement.	Louisville	7	528	2,373	3,182
Chemical process plant; fossil-fuel boilers; hydrofluoric, sulfuric, and nitric acid plant.	Beatrice Nitrogen Plant.	Beatrice	18	48	924	5

b. BART-Subject Sources

Nebraska then screened out some BART-eligible sources from being subject to BART on the basis that they do not cause or contribute to visibility impairment in a Class I area. Nebraska selected a contribution threshold of 0.5 deciviews based on the 98th percentile of daily modeled visibility impact over an annual period because it is consistent with the Guidelines, no BART-eligible sources are near Class I areas, and there are no significant clusters of BART-eligible sources in the State. Nebraska required the owner of each BART-eligible source to conduct dispersion modeling using the CALPUFF model and submit the results to Nebraska.[18] The CALPUFF modeling protocol is included in Appendix 10.3 of the SIP.

Nebraska identified eight sources with impacts less than 0.5 deciviews, and were therefore determined not to be BART-subject: Beatrice Nitrogen Plant; Ash Grove Cement; Don Henry Power Center; Lon D. Wright Power Plant; CW Burdick Generating Station; North Denver Station; NPPD Sheldon Station; and OPPD North Omaha Station.

Two facilities had impacts greater than 0.5 deciviews, and were therefore determined to be BART-subject: OPPD NCS Station Unit 1 and NPPD GGS Units 1 and 2. EPA proposes to find that Nebraska adequately determined which sources in the State were subject to BART.

[18] One exception—Nebraska conducted modeling for the Lon D. Wright Power Plant.

c. Particulate Matter (PM) Evaluation

Nebraska used source-specific CALPUFF modeling to examine the relative contribution of PM, NO_X, and SO_2 emissions to visibility impairment.

For NCS Unit 1, direct PM emissions only accounted for 0.32 percent of impairment in the most impaired year, 2001, at the closest Class I area, Hercules Glades. Nebraska concluded that direct PM emissions from NCS do not significantly contribute to visibility impairment, and therefore, a full five factor BART analysis for PM was not needed.

For GGS Units 1 and 2, direct PM emissions only accounted for 0.69 percent of impairment on the most impaired year, 2003, at the closest Class I area, Badlands. Nebraska concluded that direct PM emissions from GGS do not significantly contribute to visibility impairment, and therefore, a full five factor BART analysis for PM was not needed.

EPA agrees with these conclusions.

d. BART Determination for Omaha Public Power District (OPPD) Nebraska City Station (NCS) Unit 1

Nebraska and EPA have reached different conclusions as to whether NCS Unit 1 is located at a power plant with a generating capacity in excess of 750 megawatts (MW), or not. If NCS falls within this category of sources, then the BART Guidelines must be followed in determining BART limits and the presumptive limits in the Guidelines would apply. See CAA section 169A(b). In September 2008, Nebraska asked EPA for clarification on whether recently permitted units, such as NCS Unit 2, should be included in the total plant capacity for purposes of applying presumptive BART. In a response dated November 7, 2008, we indicated it is reasonable to interpret the RHR to mean that if the plant capacity is greater than 750 MW at the time the BART determination is made by the State (i.e., at the time the State places the BART determination on public notice), then the power plant is a facility ''having a total generating capacity in excess of 750 [MW]'' and any unit at the plant greater than 200 MW is subject to presumptive BART.

The groundbreaking for construction of NCS Unit 2 was September 13, 2005. Nebraska put the NCS Unit 1 BART permit on public notice on December 12, 2008. Unit 2 was operational on May 1, 2009.[19] Nebraska concluded that because NCS Unit 2 was not *operational* at the time of the BART determination for Unit 1, its capacity did not count towards the 750 MW threshold, and therefore, it was not mandatory for Nebraska to follow 40 CFR 51 Appendix Y in making the BART determination.

We concede that there is some question as to whether the NCS Unit 1 is a presumptive unit, requiring use of the BART Guidelines, or not. Regardless, Nebraska did proceed

[19] *http://www.powermag.com/coal/Top-Plants-Nebraska-City-Station-Unit-2-Nebraska-City-Nebraska_2179_p4.html,* accessed February 7, 2012.

through a basic step-wise analysis of the costs and visibility impacts of available controls.

NCS Unit 1 has existing overfire air (OFA), so in determining BART for NO_X at NCS unit 1, Nebraska considered low NO_X burners (LNB) and selective catalytic reduction (SCR). Selective non-catalytic reduction (SNCR) was determined to be technically infeasible due to high furnace exit temperatures. The cost effectiveness of LNB/OFA at a rate of 0.23 lbs/MMBtu was $166 per ton; the cost effectiveness of LNB/OFA plus SCR at a rate of 0.08 lbs/MMBtu was $2,611 per ton.

NCS Unit 1 impacts Hercules Glades in Missouri and Wichita Mountains in Oklahoma an average of 0.65 dv and 0.46 dv, respectively.[20] Installing LNB with OFA offers an average improvement of 0.22 dv at Hercules Glades and 0.12 dv at Wichita Mountains. The addition of SCR would provide an additional 0.17 dv of improvement at Hercules Glades,[21] but because of the high incremental cost of $8,203 per ton and the level of visibility improvement, it was not chosen as BART. Nebraska determined BART for NO_X at NCS unit 1 to be LNB with OFA at a rate of 0.23 lbs/MMBtu. EPA agrees that the State's determination is reasonable given the relatively insignificant additional visibility improvement associated with SCR for the additional cost.

For SO_2 control at NCS, Nebraska evaluated both dry and wet FGD. Nebraska concluded that dry FGD (spray dryer absorber (SDA)) has lower capital and operating costs than wet FGD and can achieve a similar control efficiency; it thus focused its cost analysis on dry FGD. We note that Nebraska did not evaluate Dry Sorbent Injection (DSI) as a potential SO_2 control for NCS Unit 1. Since DSI can generally achieve the same control efficiency as FGD, we believe that the State has appropriately evaluated the *level* of controls in its analysis.

The costs per ton for dry FGD were reasonable both at a rate of 0.15 lbs/MMBtu ($1,759 per ton) and 0.10 lbs/MMBtu ($1,636 per ton).[22] The visibility improvement at Hercules Glades from dry FGD was 0.25 dv and 0.44 dv [23], respectively. The visibility improvement of adding FGD at a rate of 0.15 lb/MMBtu to the LNB/OFA system required as BART for NO_X is 0.25 dv.[24] Nebraska determined that the minimal visibility improvement from installation of FGD at NCS Unit 1 did not warrant the additional cost ($34,770,000 or $1,759 per ton); therefore, no SO_2 controls were proposed as BART for NCS Unit 1. EPA agrees that the State's determination is not unreasonable given the minimal additional visibility improvement.

e. BART Determination for Nebraska Public Power District (NPPD) Gerald Gentleman Station (GGS) Units 1 and 2

Nebraska evaluated LNB with OFA and SCR for NO_X control at GGS. In 2006, NPPD installed LNB and OFA at Unit 1, but since this was after the 2001–2003 baseline modeling period, it was still evaluated in the BART analysis. SNCR was determined to be technically infeasible due to high furnace exit temperatures. LNB with OFA (at a rate of 0.23 lbs/MMBtu) had a cost effectiveness of $198 per ton, and LNB with OFA and SCR (at a rate of 0.08 lbs/MMBtu) had a cost effectiveness of $2,297 per ton.

GGS affects six Class I areas greater than 0.5 dv on average: Badlands and Wind Cave in South Dakota; Wichita Mountains in Oklahoma; Rocky Mountain in Colorado; and Hercules Glades and Mingo in Missouri. GGS has a cumulative baseline impact on these six Class I areas of 8.86 dv.

LNB plus OFA offers an improvement at Badlands (the closest and most affected Class I area) of 0.66 dv, and 1.94 dv cumulatively. The addition of SCR offers an incremental improvement of 0.49 dv at Badlands, and 1.27 dv cumulatively. Nebraska concluded that based on the relatively low incremental visibility improvement of adding SCR to the LNB/OFA system for the additional cost ($5,445 incremental cost per ton), requiring SCR as BART was not warranted. NO_X BART for GGS was determined to be the installation of LNB/OFA with an emission limitation of 0.23 lbs NO_X/MMBtu, averaged across the two units. EPA agrees that the State's NO_X BART determination for GGS is reasonable.

Nebraska evaluated wet and dry FGD and Dry Sorbent Injection (DSI) for SO_2 controls at GGS. All control options were evaluated at the presumptive rate of 0.15 lbs/MMBtu. The cost effectiveness for dry and wet FGD was nearly identical at $2,726 per ton and $2,724 per ton, respectively; the cost effectiveness of DSI was $2,058 per ton. All of these controls were determined by Nebraska to be reasonable on a cost per ton basis.

The visibility improvement from these controls operated at a rate of 0.15 lbs/MMBtu is significant: an average of 0.86 dv from DSI, and an average of 0.78 dv from FGD at Badlands. The cumulative improvement is even greater; FGD control would offer an improvement of 3.17 dv across the six Class I areas that GGS affects. Nebraska only provided visibility information for DSI at Badlands; therefore, the cumulative benefit of DSI is unknown.

Nebraska raises water use of wet and dry FGD as a significant non-air environmental impact. In its SIP, Nebraska presents a description of the over-appropriation of water resources in the western part of Nebraska, where GGS is located. The State described that this over-appropriation means that any new use of groundwater requires an offset in water consumption in the same area. To do this, NPPD would have to purchase the groundwater rights from surrounding landowners. Nebraska did not include the cost of obtaining these groundwater rights in the original BART analysis costs; however, in the narrative portion of the SIP, Nebraska describes both the costs of obtaining groundwater, and the loss of agricultural revenue due to taking land out of agricultural production. Nebraska concludes that the cost of obtaining water to operate wet FGD would add approximately 8.6 percent to the cost of controls. If these costs were added into the BART analysis, it would only increase the cost of control by $234 per ton. This brings the cost per ton to $2,958, which EPA believes is still a reasonable cost of control over both units.[25]

In the SIP, Nebraska says that it used a $40,000,000/yr/dv threshold for determining what would be considered a reasonable investment for visibility improvement. They concluded that the costs of FGD control were reasonable on a cost per ton basis, but not on a dollars per deciview basis. Furthermore, Nebraska sees the water consumption of FGD controls as significant, and concludes that because of this unique situation, FGD controls are unreasonable for GGS Units 1 and 2. Nebraska concludes that BART is no SO_2 controls at GGS.

[20] Our use of the word average in this section means averaging the 98th percentile impact for each of the three baseline years, 2001–2003.

[21] Improvement from the addition of SCR at Wichita Mountains was not provided by NDEQ in the SIP.

[22] Nebraska assumed the same cost regardless of the level of control (0.15 or 0.10 lb/MMBtu); however, a higher level of control would likely have a slightly higher cost.

[23] Nebraska only provided visibility information for the most impacted year for the 0.10 lb/MMBtu rate; therefore, this improvement is maximum, not average.

[24] Nebraska did not provide modeling information for FGD at a rate of 0.10 lb/MMBtu combined with LNB/OFA, so that level of control cannot be fully evaluated.

[25] EPA is not including any cost of the loss of agricultural revenue in this estimation.

EPA disagrees with this conclusion. Using Nebraska's analysis, we agree that the cost per ton for FGD control is reasonable, and Nebraska's analysis shows significant visibility improvement, both at Badlands and on a cumulative basis. We also believe that Nebraska inappropriately ruled out DSI. Costs for the control are reasonable at $2,058 per ton and visibility improvement at Badlands is significant at 0.86 dv. Furthermore, DSI does not consume as much water as does FGD.

Finally, even though the cost of FGD controls is reasonable, we believe that the costs of FGD control are overestimated. This is described in detail in the TSD to this notice. EPA conducted an independent review of the cost information presented by Nebraska in its BART analysis for dry scrubbers. We found several errors and deviations from EPA's Cost Control Manual.[26] Cost categories in which we found significant errors or deviations include: Engineering Procurement and Construction; Bond Fees; Escalation; Contingency; Allowance for Funds Used During Construction; Capital Recovery Factor; and Operation and Maintenance.

We also found that Nebraska incorrectly calculated the SO_2 emission rates. On page 15 of its BART analysis, NPPD calculates its SO_2 emission baseline based on applying a 24-hour maximum emission rate of 0.749 lbs/MMBtu (2001–2003) to a maximum heat input of 15,175.5 MMBtu/hr, based on a 100 percent capacity factor. This results in an emissions baseline of 49,785 tons/year.[27] We believe this calculation does not appropriately represent GGS's SO_2 emission baseline, and is in fact too high. We have downloaded emissions data for GGS from our Clean Air Markets Web site,[28] and using the same emissions data from the three year averaging period of 2001–2003, we have calculated the three year average annual SO_2 emissions for units 1 and 2 of the GGS to be 0.565 lbs/MMBtu.[29] Reducing this to a controlled SO_2 emissions level of 0.15 lbs/MMBtu results in a control efficiency of approximately 73.5 percent. Applying this level of control to our adjusted GGS SO_2 emission baseline of 31,513 tons/year would reduce it to 8,366 tons/yr, resulting in a reduction of 23,147 tons of SO_2 annually. Applying the same approximate 80 percent level of reduction GGS assumes to our adjusted GGS SO_2 emission baseline of 31,513 tons/yr would reduce it to 6,311 tons/yr, resulting in a reduction of 25,202 tons of SO_2 annually.[30]

However, dry scrubbers are capable of much greater control efficiencies than the 80 percent level that GGS assumes.[31] Therefore, for the purpose of calculating the cost effectiveness of dry scrubbers at the GGS, we also analyzed an SO_2 emission limit of 0.06 lbs/MMBtu, which results in a scrubber efficiency of approximately 89.4%. Applying this level of control to our adjusted GGS baseline of 31,513 tons/yr would reduce it to 3,347 tons/yr, resulting in a reduction of 28,166 tons of SO_2 annually. Table 2 summarizes EPA's adjustments to the Nebraska cost estimates for dry FGD control at GGS.

TABLE 2—RANGE OF GGS DRY SCRUBBER COST EFFECTIVENESS

	Dry FGD (original NPPD BART analysis)	Dry FGD EPA's estimate		
SO_2 Baseline	49,785	31,513		
Uncontrolled Emission Level (lbs/MMBtu)	0.749	0.565		
Controlled Emission Rate (lbs/MMBtu)	0.15	0.15	0.11	0.06
Percent Reduction	80%	73.5%	80%	89.4%
SO_2 Emission Reduction (tons)	39,815	23,147	25,202	28,166
Total Annualized Cost	$108,535,690	$53,469,570	$54,335,512	$55,543,352
Total Cost Effectiveness ($/ton)	$2,726	$2,310	$2,156	$1,972

In summary, we believe that Nebraska's cost analysis includes errors and deviations from EPA's Cost Control Manual that results in the overestimation of the costs of FGD controls. In addition, the State did not do a full evaluation of the potential visibility benefits from levels of control that FGD is capable of achieving. We believe that the cost per ton of SO_2 controls ranging from $1,972 (our analysis) to $2,958 (Nebraska's analysis, plus water) is reasonable, and that the visibility benefits, whether considered just at Badlands or cumulatively, are significant. Finally, we believe that the State improperly rejected DSI as a potential BART control. Therefore, EPA proposes to disapprove Nebraska's BART determination for SO_2 controls at GGS.

f. BART Summary and Enforceability

Each source subject to BART must install and operate BART as expeditiously as practicable, but in no event later than five years after approval of the SIP revision; and include monitoring, recordkeeping and reporting requirements to ensure the BART limits are enforceable. Nebraska chose to incorporate BART requirements into PSD permits issued pursuant to Title 129 of the Nebraska Air Quality Regulations, Chapter 19. These limits will be incorporated into the facility's Title V permits after SIP approval. The permits require that the limits be met within five years of approval of Nebraska's regional haze SIP. The limits must be met on a thirty-day rolling average basis at all times, including periods of startup, shutdown and malfunction. The permits require the use of a NO_X continuous emission monitoring system (CEMS) on each unit to demonstrate compliance with the BART NO_X limits. Each CEMS is

[26] EPA Air Pollution Control Cost Manual, Sixth Edition, EPA/452/B–02–001, January 2002.

[27] (0.749 lbs/MMBtu) * (15,175 MMBtu/hr) * (8,760 hrs/yr) * (ton/2,000 lbs) = 49,785 tons/yr.

[28] *http://camddataandmaps.epa.gov/gdm/index.cfm?fuseaction=emissions.wizard.*

[29] See Attachment B to our TSD. Based on adding the station total pounds of SO_2 emissions from 2001–2003 and dividing by the station total heat input from 2001–2003.

[30] (39,815/49,785) * 31,513 = 25,202.

[31] Response to Technical Comments for Sections E. through H. of the **Federal Register** Notice for the Oklahoma Regional Haze and Visibility Transport Federal Implementation Plan, Docket No. EPA–R06–OAR–2010–0190, 12/13/2011, Section II., Comments Relating to Our SO_2 BART Emission Limit, and elsewhere.

required to be operated and certified in accordance with 40 CFR Part 75. Recordkeeping and reporting is also required to be in accordance with 40 CFR Part 75. The PSD permits were submitted to the EPA for SIP approval as part of the State's RH SIP submittal. The PSD permits are enforceable by the State, and by EPA. We have reviewed these requirements and propose to find them adequate as they relate to the BART limits we are proposing to approve.

Table 3 is a summary of the BART determinations made by Nebraska and EPA's proposed action on those determinations.

TABLE 3—SUMMARY OF NEBRASKA BART DETERMINATIONS

Facility, units	Pollutant	BART controls determined by the State	EPA's proposed action
OPPD Nebraska City Station, Unit 1	NO_X	Install low NO_X burners with over fired air. Meet presumptive level of 0.23 lbs/MMBtu.	Approval.
	SO_2	No additional controls. Source currently uses low sulfur coal	Approval.
NPPD Gerald Gentleman Station, Units 1 and 2.	NO_X	Install low NO_X Burners with over fired air. Meet presumptive level of 0.23 lbs/MMBtu, averaged over the two units.	Approval.
	SO_2	No additional controls. Continue to use low sulfur coal	Disapproval.

G. Federal Implementation Plan (FIP) to Address SO_2 BART for GGS and LTS

As discussed above, we propose to disapprove Nebraska's BART determination for GGS. In addition, as discussed in section III.E. (Long Term Strategy), we propose to disapprove Nebraska's LTS insofar as it relied on the deficient BART determination for SO_2 at GGS. To address the deficiencies identified in these proposed disapprovals, we are also proposing a FIP.

The RHR allows for use of an alternative program in lieu of BART so long as the alternative program can be demonstrated to achieve greater reasonable progress toward the national visibility goal than would BART. On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal than would BART in the States in which the Transport Rule applies, including Nebraska. 76 FR 82219. EPA also proposed to revise the RHR to allow States to meet the requirements of an alternative program in lieu of BART by participation in the trading programs under the Transport Rule. EPA has not taken final action on that rule.

We are proposing a partial FIP, relying on the Transport Rule as an alternative to BART for SO_2 emissions from the GGS units. This limited FIP would satisfy the SO_2 BART requirement for these units and remedy the deficiency in Nebraska's LTS.

We noted that on December 30, 2011, the D.C. Circuit Court issued an order addressing the status of the Transport Rule and CAIR in response to motions filed by numerous parties seeking a stay of the Transport Rule pending judicial review. In that order, the D.C. Circuit Court stayed the Transport Rule pending the court's resolutions of the petitions for review of that rule in *EME Homer Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The court also indicated that EPA is expected to continue to administer the CAIR in the interim until the court rules on the petitions for review of the Transport Rule. Under the Regional Haze Rule, an alternative to BART does not need to be fully implemented until 2018. As that is well after we expect the stay to be lifted, EPA believes it may still rely on the Transport Rule as an alternative to BART. Further, our proposed action would not impact the implementation of the Transport Rule or otherwise interfere with the stay.

H. Coordinating Regional Haze and RAVI

EPA's visibility regulations direct States to coordinate their RAVI LTS and monitoring provisions with those for regional haze. Under EPA's RAVI regulations, the RAVI portion of a State SIP must address any integral vistas identified by FLMs pursuant to 40 CFR 51.304. An *integral vista* is defined in 40 CFR 51.301 as a ''view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.'' Visibility in any Class I area includes any integral vista associated with that area. As mentioned previously, Nebraska does not have any Class I areas and the FLMs have not certified any integral vistas affected by emissions from Nebraska sources, therefore, the Nebraska regional haze SIP submittal is not required to address the two requirements regarding coordination of the regional haze SIP with the RAVI LTS and monitoring provisions.

I. Monitoring Strategy

Because it does not host a Class I area, Nebraska is not required to develop a monitoring strategy for measuring, characterizing, and reporting regional haze impairment that is representative of Class I areas within the State. However, the State is required to establish procedures by which monitoring data and other information is used to determine the contribution of emissions from within the State to regional haze impairment at Class I areas outside of the State.

Compliance with this requirement is met by participation in the IMPROVE network.[32] Nebraska installed one IMPROVE protocol sampler at Nebraska National Forest County near Halsey, Nebraska in the central part of the State, and another at Crescent Lake National Wild Life Refuge in the panhandle of the State. A third IMPROVE Protocol sampler in Nebraska is operated independently in Thurston County, by the Omaha Tribe of Nebraska; however, EPA notes that this monitor is no longer operating.

EPA believes the State's commitment to utilize data from these sites, or any other EPA-approved monitoring network location, to characterize and model conditions within the State and to compare visibility conditions in the State to visibility impairment at Class I areas hosted by other States, and proposes that Nebraska has satisfied the monitoring requirements of 40 CFR 51.308(d)(4).

J. Emissions Inventory

States are required to develop a statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any Class I area. The inventory must include emissions for a baseline year, emissions for the most recent year with available data, and future projected emissions.

As mentioned previously, Nebraska worked with CENRAP and its

[32] *http://vista.cira.colostate.edu/improve.*

contractors to develop statewide emission inventories for 2002 and 2018. Detailed methodologies are documented in appendices 8.3 and 9.1 of the SIP. The 2018 emissions inventory was developed by projecting 2002 emissions and applying reductions expected from Federal and State regulations affecting the emissions of the visibility-impairing pollutants NO_X, PM, SO_2, and VOCs. The 2002 emissions were grown to year 2018 primarily using the Economic Growth Analysis System (EGAS6), MOBILE 6.2 vehicle emission modeling software, and the Integrated Planning Model (IPM) version 2.93 for EGUs. The 2018 emissions for EGUs were based on simulations of the IPM that took into the account the effects of CAIR on emissions.

At the time modeling was conducted, BART decisions had not been made by many States, including Oklahoma and Nebraska. Presumptive levels of BART control were assumed in projections of 2018 emissions. The 2018 Nebraska inventory was then updated to account for Nebraska's BART decisions, specifically, no SO_2 controls on the two BART-subject EGUs in the State.

EPA believes the 2002 and 2018 statewide emissions inventories and the State's method for developing the 2018 emissions inventory for Nebraska meets the requirements of the RHR. Nebraska has also committed to update inventory periodically, therefore, we propose that Nebraska has met the requirements of 40 CFR 51.308(d)(4)(v).

K. Federal Land Manager (FLM) Consultation

States are required to provide the FLMs an opportunity for consultation, in person and at least sixty days prior to holding any public hearing on the SIP (or its revision). Consultations should include the opportunity for the FLMs to discuss their assessment of impairment of visibility in any Class I area; and recommendations on the development of the RPG and on the development and implementation of strategies to address visibility impairment.

Nebraska provided several opportunities for the FLMs to comment on Nebraska's regional haze plan. Nebraska asserts that it sent the draft BART permits for NPPD and OPPD to the FLMs in mid-2008, and again prior to public notice. Nebraska provided the FLMs with a draft of the Nebraska regional haze SIP on November 16, 2010, and received formal comments from the National Park Service (NPS), the US Fish and Wildlife Service (USFWS), and the US Forest Service (USFS) in January 2011.

In developing any SIP (or plan revision), States must include a description of how it addressed any comments provided by the FLMs. The FLM comments and Nebraska's responses are provided in appendix 3 of the SIP, and are summarized in the TSD for this rulemaking.

The main FLM comments centered on concerns that the modeling done by the RPOs assumed a presumptive level of control on Nebraska BART sources, but Nebraska did not go on to require that level of control, and in fact, required no control for SO_2.

The FLMs also commented that DSI should be evaluated for SO_2 control and SNCR for NO_X control at NCS Unit 1; they disagree with Nebraska's decision to not require FGD and SCR, as both controls have a reasonable cost. They strongly disagree with the BART determinations for GGS, pointing out that the visibility impact of these units is significant at more than just the closest Class I area (Badlands), and question several aspects of the cost estimation, such as escalation, contingencies, allowance for funds during construction, overestimation of direct annual costs.

The USFWS did some interagency consultation regarding water availability as a reason not to require FGD controls. The USFWS Air Branch asked the USFWS's Nebraska Field Office to review Nebraska's draft regional haze SIP and comment on the merits of the arguments on water and endangered species protection. While the Nebraska Field Office agrees that Nebraska's arguments have some merit, they say that the information provided by Nebraska represents a worst-case scenario, and concludes that the water availability concerns do not automatically negate the opportunity to make improvements in air quality.

Finally, regional haze SIPs must provide procedures for continuing consultation between the State and FLMs on the implementation of 40 CFR 51.308, including development and review of SIP revisions and five-year progress reports, and on the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas. Nebraska has committed to continuing to coordinate and consult with the FLMs during the development of future progress reports and plan revisions, as well as during the implementation of programs having the potential to contribute to visibility impairment in the mandatory Class I Federal areas. We propose that Nebraska has satisfied the FLM consultation requirements of 40 CFR 51.308(i).

L. Periodic SIP Revisions and Five Year Progress Report

Nebraska acknowledged the requirement under 40 CFR 51.308(f)–(h) to submit periodic progress reports and regional haze SIP revisions, with the first report due by July 31, 2018, and revisions due every ten years thereafter. Nebraska committed to meeting this requirement.

Nebraska also acknowledged the requirement to submit periodic reports evaluating progress towards the reasonable progress goals established for each mandatory Class I area. Nebraska committed to complete the first five-year progress report by December 31, 2016. The report will evaluate the progress made towards the reasonable progress goal for each mandatory Class I area located outside Nebraska, which may be affected by emissions from within Nebraska. Using the findings of this first report, Nebraska committed to determining whether the adequacy of the plan is sufficient and taking appropriate action to revise the SIP as needed. We propose to find that Nebraska has satisfied the requirements to submit periodic SIP revisions and progress reports as required by 40 CFR 51.308(f)–(h).

IV. Proposed Actions

We propose to partially approve and partially disapprove Nebraska's regional haze SIP submitted on July 13, 2011. We propose to disapprove the SO_2 BART determinations for Units 1 and 2 of GGS because they do not comply with our regulations and guidance. We are also proposing to disapprove Nebraska's long-term strategy insofar as it relied on the deficient SO_2 BART determination at GGS. We propose a FIP relying on the Transport Rule as an alternative to BART for SO_2 emissions from GGS to address these issues.

We propose to approve all other portions of the Nebraska RH SIP. We note that all controls required as part of Nebraska's BART determinations, not included as part of our proposed FIP, must be operational within five years from the effective date of our final rule.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for ''answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *.'' 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply to this action.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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 will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (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 proposed action on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. The proposed partial approval of the SIP, if finalized, merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more (adjusted to inflation). Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule 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, because it merely approves State rules implementing a Federal standard, and does not impose any new mandates on State or local governments. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

Executive Order 13045 (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of 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.

We have determined that this proposed rule, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it proposes to approve State-adopted emission limits for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule does not impose any new mandates, because EGUs in Nebraska are subject to the requirements of the Transport Rule independently of this proposed action. *See* 76 FR 82219, for an analysis of the implications of Executive Order 12898 in relation to EPA's proposed rule, ''Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans'' (December 30, 2011).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Visibility, Interstate transport of pollution, Regional haze, Best available control technology.

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

Dated: February 15, 2012.

Karl Brooks,

Regional Administrator, Region 7.

Title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—[AMENDED]

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

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

Subpart CC—Nebraska

2. Sections 52.1430–52.1434 remain reserved.

3. Section 52.1435 is revised to read as follows:

§ 52.1435 Visibility protection.

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable measures for meeting the requirements of 40 CFR 51.308(d)(3) and 51.308(e) for protection of visibility in mandatory Class I Federal areas.

(b) *Best Available Retrofit Technology for SO_2 at Nebraska Public Power District, Gerald Gentleman Units 1 and 2.* The requirements of 40 CFR 51.308(e) with respect to emissions of SO_2 from Nebraska Public Power District, Gerald Gentleman Units 1 and 2 are satisfied by § 52.1429.

[FR Doc. 2012–4991 Filed 3–1–12; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 11–42, 03–109, 12–23, and CC Docket No. 96–45; FCC 12–11]

Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks further focused comment on a number of issues related to the Lifeline program, including establishing an eligibility database, advancing broadband availability through digital literacy training, limiting section 251 resale of Lifeline-supported services, establishing a permanent support amount for voice service support, reforming Lifeline and Link Up support on Tribal lands, adding Women, Infants and Children (WIC) to the list of qualifying programs for Lifeline, establishing eligibility for homeless veterans, determining whether ETCs should be required to apply the Lifeline discount on all of their voice and data packages, examining whether the Commission should further clarify the own facilities requirement, determining whether ILECs should have the ability to opt out of the Lifeline program as well as whether the record retention requirement should be lengthened from three years to ten years.

DATES: Comments are due April 2, 2012 reply comments are due May 1, 2012.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 11–42, 03–109, 12–23, and CC Docket No. 96–45; FCC 12–11, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kimberly Scardino, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 11–42, 03–109, 12–23, and CC Docket No. 96–45; FCC 12–11, adopted January 31, 2012 and released February 6, 2012. There was also a companion document released with this item. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

▪ *Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Introduction

1. In this Order, we comprehensively reform and begin to modernize the Universal Service Fund's Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service (Joint Board), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission's March Notice of Proposed Rulemaking, the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the network will have the opportunity to benefit from the numerous opportunities and security that telephone service affords.

2. This Order is another step in the Commission's ongoing efforts to overhaul all USF programs to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband. In June 2011, the Commission adopted the *Duplicative Program Payments Order,* 76 FR 38040, June 29, 2011, which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed the Universal Service Administrative Company (USAC) to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future. Building on those efforts, the unprecedented reforms adopted in today's Order could save the Fund up to an estimated $2 billion over the next three years, keeping money in the pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

3. These savings will reduce growth in the Fund, while providing telephone service to consumers who remain disconnected from the voice networks of the twentieth century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the twenty-first century by closing the broadband adoption gap. This Order complements the recent *USF/ICC Transformation Order,* 76 FR 76623, December 8, 2011, which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched ''Connect to Compete'' private-sector initiative to increase access to affordable broadband service for low-income consumers.

4. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program's one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal

lands that are served by eligible telecommunications carriers (ETCs) that participate in the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than $5 million in annual support. These reforms are estimated to save the Fund up to $2 billion over the next three years. As part of these reforms, we establish a savings target of $200 million in 2012 versus the program's status quo path in the absence of reform, create a mechanism for ensuring that target is met, and put the Commission in a position to determine the appropriate budget for Lifeline in early 2013 after monitoring the impact of today's fundamental overhaul of the program and addressing key issues in the FNPRM, including the appropriate monthly per-line support for the program. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of $9.25 per month for non-Tribal subscribers to simplify program administration.

II. Further Notice

A. Eligibility Database

5. We conclude that establishing a fully automated means for verifying consumers' initial and ongoing Lifeline eligibility from governmental data sources would both improve the accuracy of eligibility determinations and ensure that only eligible consumers receive Lifeline benefits, and reduce burdens on consumers as well as ETCs. We conclude that it is important to speed-up adoption of a widespread, automated means of verifying program eligibility. We therefore direct the Bureau and USAC to take all necessary actions so that, as soon as possible and no later than the end of 2013, there will be an automated menas to determine Lifeline eligibility for, at a minimum, the three most common programs through which consumers qualify for Lifeline. To ensure that the Commission has sufficient information to implement such a solution, we seek focused comment on issues in a FNPRM. The Commission directs the Bureau to reach out to the relevant federal agencies (e.g., HHS and Agriculture) and their state counterparts to determine whether and to what extent program eligibility information can be shared among agencies.

B. Digital Literacy

6. To support broadband adoption, the FNPRM seeks comment on dedicating a certain amount of USF funding for four years to support formal digital literacy training for consumers at libraries and schools across the United States. The Commission also seeks comment on its statutory authority to use USF funds for this purpose.

C. Resale

7. The FNPRM proposes that only ETCs who provide Lifeline directly to subscribers will be eligible to receive reimbursement from the Fund. Moreover, the FNPRM proposes that the entity with the relationship with the end-user be required to populate the duplicates database with the necessary subscriber information. As an alternative to the foregoing proposals, the FNPRM proposes forbearing from the incumbent LECs' resale obligation under section 251(c)(4).

D. Lifeline Support Amounts for Voice Service

8. The FNPRM seeks comment on number of issues, including whether to continue with a flat-rate of reimbursement, and if, so, whether the current interim $9.25 per line support amount should be made permanent. The FNRPM also seeks comment on and information for a demand estimation study to determine the effect of different support amounts on demand for the program.

E. Tribal Lands Support

9. The FNPRM seeks comment on whether to adopt a rule permitting eligible residents of Tribal lands to apply their allotted Tribal Lands discount amount to more than one supported service per household (*e.g.,* a household would be permitted to ''split'' their Lifeline discount between a wireline and a mobile phone service or between two mobile services and receive a discount off of the cost of each service). The FNPRM seeks comment on how such a rule could be administered, including ways to prevent waste, fraud, and abuse if this rule is adopted. In addition, the FNPRM seeks comment on whether the Link Up program for residents of Tribal lands is currently implemented effectively, or whether the program should be altered or eliminated given the recent reforms in high-cost support, including establishment of the Tribal Mobility Fund.

F. WIC

10. The FNPRM seeks comment on whether to include the Supplemental Nutrition Assistance Program for Women, Infants and Children, administered by the Department of Agriculture, as a program conferring Lifeline eligibility upon participants.

G. Homeless Veterans Programs Inclusion for Purposes of Eligibility

11. The FNPRM seeks comment on measures that would enable veterans who lack any income (and therefore cannot document whether their income is below the income-based program threshold) but are not otherwise enrolled in a qualifying program, to demonstrate eligibility for Lifeline. The FNPRM asks whether additional measures should be implemented to ensure program access while limiting waste, fraud and abuse in situations where an eligible veteran has no documentation of income.

H. Mandatory Application of Lifeline Discount to Bundled Service Offerings

12. The FNPRM seeks comment on whether to require ETCs to permit subscribers to apply their Lifeline discount to any bundle that includes a voice component. The FNPRM also seeks comment on whether there should be any limitations on this requirement (*e.g.,* should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages that contain services other than voice and broadband, such as video).

I. ''Own Facilities'' Requirements

13. The FNPRM seeks further comment on whether the Commission should consider any additional requirements for a carrer to receive support if that carrier does not own network assets or meet the requirements of section 214(e)(1)(A). Specifically, the FNPRM seeks comment on whether the Commission should amend its rules to clarify the term ''combination of its own facilities'' with respect to the facilities a carrier must own and use to provide USF supported services. The FNPRM also asks for comment on whether there should be a minimum combination of facilities that the carrier should own and use in order to qualify as a facilities-based ETC under section 254(e)(1)(A).

J. Eligible Telecommunications Carrier Requirements

14. The FNPRM seeks comment on whether incumbent LECs can choose whether to participate in the Lifeline program. In addition, the FNPRM seeks comment on whether the program should move to a voucher-based system.

K. Record Retention Requirements

15. The FNRPM proposes to amend the current three year record retention requirement to a ten year requirement.

III. Procedural Matters

A. Filing Requirements

16. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

▪ *Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

▪ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

▪ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

▪ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

B. Paperwork Reduction Act Analysis

17. The *Further Notice of Proposed Rulemaking* (*FNPRM*) contains proposed new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The proposed requirements will be submitted to the Office of Management and Budget (OMB). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the OMB, general public, and other Federal agencies to comment on the information collection requirements contained in this document, as required by PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.

C. Initial Regulatory Flexibility Analysis

18. As Required by the Regulatory Flexibility Act if 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (*FNPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *FNPRM.* The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rulemaking

19. The *FNPRM* seeks comment on a variety of issues relating to the comprehensive reform and modernization of the Universal Service Fund's Lifeline program. As discussed in the Order accompanying the *FNPRM,* the Commission believes that such reform will strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; modernize the program for broadband; and constrain the growth of the program. In proposing these reforms, the Commission seeks comment on various reporting, recordkeeping, and other compliance requirements that may apply to all carriers, including small entities. We seek comment on any costs and burdens on small entities associated with the proposed rules, including data quantifying the extent of those costs or burdens.

20. This *FNPRM* is one of a series of rulemaking proceedings designed to implement the National Broadband Plan's (NBP) vision of improving and modernizing the universal service programs. In this *FNPRM,* we propose and seek comment on comprehensive reforms to the universal service low-income support mechanism.

21. Specifically, we propose and seek comment on the following eight reforms and modernizations that may be implemented in funding year 2012 (July 1, 2012–June 30, 2013).

22. In the *FNPRM,* we recommend the creation of a centralized database for online certification and verification on Lifeline consumers' eligibility to participate in the low-income program. In the *FNPRM,* we seek comment on the methods of creating the database including whether, how, and with what information ETCs should populate the eligibility database.

23. Additionally, we seek comment on establishing a digital literacy training program, and specifically, we seek comment on what entities are best suited to provide such training (*i.e.,* schools and libraries), including ETCs.

24. As part of the effort to reduce waste, fraud, and abuse in the program, the Commission proposes to allow only ETCs with a direct relationship with the end-user Lifeline subscriber to seek reimbursement from the Fund. In addition we propose that the ETC with the direct relationship with the end-user be responsible for populating the duplicates database. How would this proposal affect entities economically? We seek comment on the matter. We seek comment on procedures that should be implemented to ensure that Lifeline wholesalers are not seeking Fund reimbursement for resold Lifeline offerings including self-certification, record keeping, and audit requirements. We also seek comment on which ETC, the wholesaler or the reseller, should be responsible for complying with the other certification and verification requirements in the Order. Compliance with the proposed rule would require current Lifeline resellers who are not designated ETCs to either (1) obtain ETC designation or (2) purchase Lifeline for resale at wholesale rates and be prevented from seeking Fund reimbursement. As an alternative, we seek comment on whether the Commission should forbear, on its own motion, on incumbent LECs' obligation to resell Lifeline services. In addition, we seek comment on how, if at all,

incumbent LECs would be required to amend tariffs to separate the amount of the Lifeline subsidy from the wholesale price of the underlying Lifeline service being resold. We seek further comment on how the proposed rule would impact existing contractual relationships between incumbent LECs and Lifeline resellers.

25. In the Order, we establish an interim amount of $9.25 per month for Lifeline reimbursement. In the *FNPRM,* we seek comment on whether the interim reimbursement amount of $9.25 is appropriate and should be made permanent. We also seek comment on how to best determine a flat rate of reimbursement. In furtherance of that, we seek comment on the best method of obtaining the necessary information to perform a demand estimation study. Finally, we seek comment on whether the discount should be reduced over time as voice becomes a secondary application compared to broadband service.

26. In the *FNPRM,* we seek comment on whether to adopt a rule permitting eligible residents of Tribal lands to apply their allotted Tribal Lands discount amount to more than one supported service per household (*e.g.,* a household would be permitted to ''split'' their Lifeline discount between a wireline and a mobile phone service and receive a discount off of the cost of each service). The Commission seeks comment on how such a rule could be administered and how to prevent waste, fraud, and abuse if this rule is adopted.

27. The Commission seeks comment in the *FNPRM* on whether to include three additional programs in its eligibility criteria: the Supplemental Nutrition Assistance Program for Women, Infants and Children, administered by the Department of Agriculture; the Veterans Benefits Administration-Veterans Health Administration Special Outreach and Benefits Assistance program; and the Healthcare for Homeless Veterans program.

28. The Commission seeks comment regarding mandatory application of the Lifeline discount to bundled service offerings. Specifically, we seek comment on whether to require ETCs to permit subscribers to apply their Lifeline discount to any bundle that includes a voice component and whether there should be any limitations on this requirement. We ask whether there should be limitations on this potential requirement, should such a rule be adopted. Should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages that contain services other than voice and broadband? We also seek comment on various implementation issues regarding any such rule (i.e., would Lifeline subscribers face loss of voice service based on their inability to pay the entirety of a bundled service bill; can carriers limit Lifeline consumers' use of premium services).

29. Finally, we propose to update our rules to extend the retention period for Lifeline documentation, including subscriber-specific eligibility documentation, from three years to at least ten years, because the current requirements are inadequate for purposes of litigation under the False Claims Act.

B. Legal Basis

30. The Further Notice of Proposed Rulemaking, including publication of proposed rules, is authorized under sections 1, 2, 4(i)–(j), 201(b), 254, 257, 303(r), and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 201(b), 254, 257, 303(r), 503, and 1302.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

31. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

1. Wireline Providers

32. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.

33. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities. According to

Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

34. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

35. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

36. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

37. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

38. *Pre-paid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards. Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees. Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

2. Wireless Carriers and Service Providers

39. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

40. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small

business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

41. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

42. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules. The second has a size standard of $25 million or less in annual receipts.

43. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

44. The second category, i.e. ''All Other Telecommunications'' comprises ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under $25 million and 12 firms had annual receipts of $25 million to $49,999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

45. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. The 2007 census also contains data for the specific category of ''Paging'' ''that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

46. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the *2008 Trends Report,* 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

3. Internet Service Providers

47. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.,* cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.,* dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The

2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

48. *Tribal Lands Lifeline Support.* If we permit eligible residents of Tribal lands to apply their allotted Tribal Lands discount amount to more than one supported service per household, postpaid carriers may need to update their billing systems to reflect that more than one supported service may be received per Tribal household. Additionally, several carriers currently allow consumers to apply their Lifeline discount to the purchase of family shared calling plans, and, if such a rule were adopted, a similar billing functionality could be used by postpaid carriers serving eligible residents of Tribal lands. The Commission is continuing to evaluate the potential costs and benefits of this proposal and will take the steps necessary to mitigate the costs to small businesses.

49. *Mandatory Application of Lifeline Discount to Bundled Service Offerings.* The *FNPRM* seeks comment on whether to require ETCs to permit subscribers to apply their Lifeline discount to any bundle that includes a voice component. The *FNPRM* also seeks comment on whether there should be any limitations on this requirement (*e.g.,* should ETCs be obligated to offer a Lifeline discount on all of their service plans, including premium plans and packages that contain services other than voice and broadband, such as video). While we do not anticipate that these proposals will have an impact on small businesses at this time, we recognize that small entities may incur costs due to a need to update their internal systems to comply with the rule.

50. *Record Retention Requirements.* The Commission proposes to amend § 54.417 of the Commission's rules to extend the retention period for Lifeline documentation, including subscriber-specific eligibility documentation, from three years to at least ten years. ETCs will continue to maintain documentation of consumer eligibility for at least ten years and for as long as the consumer receives Lifeline service from that ETC, even if that period extends beyond ten years. The amended recordkeeping requirement will continue to apply equally to all ETCs, all of whom are currently required to maintain Lifeline documentation, including subscriber-specific eligibility documentation, for at least three years.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

51. *Eligibility database.* For the period prior to the implementation of a national eligibility database, in the *FNPRM* we consider the alternative of having third-party administrators, as opposed to the ETCs, be responsible for verifying Lifeline consumers' eligibility in the program. Accordingly, we seek comment on how to minimize or mitigate extra costs to the Fund caused by the selection of third-party administrators.

52. *Limitations on the Resale of Lifeline-Supported Services.* As part of the effort to reduce waste, fraud, and abuse in the program, the Commission proposes to allow only ETCs with a direct relationship with the end-user Lifeline subscriber to seek reimbursement from the Fund. To the extent that a reseller who is not an ETC is receiving support from the Fund, there could be an economic impact should this change be adopted, but the Commission believes that the need to protect the Fund from abuse outweighs any concerns with existing carriers raising concerns with the economic impact of the proposed rule. Furthermore, if there is an economic impact from this proposal, we seek comment on how to minimize the burdens of such a requirement on small entities. Accordingly, we seek comment on the potential economic impact of these requirements.

F. Federal Rules That May Duplicate or Conflict With Proposed Rules

53. None.

IV. Ordering Clauses

54. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 160, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 1302, and §§ 1.1 and 1.421 of the Commission's rules, 47 CFR 1.1, 1.421, this Further Notice of Proposed Rulemaking is *adopted.*

55. *It is further ordered* that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Further Notice of Proposed Rulemaking April 2, 2012, and reply comments on or before May 1, 2012.

56. *It is further ordered* that the Commission *shall send* a copy of this Further Notice of Proposed Rulemaking to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

57. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

2. Revise § 54.417 to read as follows:

§ 54.417 Recordkeeping requirements

Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the ten full preceding calendar years and provide that documentation to the Commission or Administrator upon request. Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in §§ 54.409(d) and 54.410(b)(3) for as long as the consumer receives Lifeline service from that eligible telecommunications carrier.

[FR Doc. 2012–5142 Filed 3–1–12; 8:45 am]

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Forest Service Land Management Plans To Be Amended To Incorporate Greater Sage-Grouse Conservation Measures

AGENCY: Forest Service, USDA.

ACTION: Notice, Request for Comments.

SUMMARY: The Bureau of Land Management (BLM) published a Notice of Intent (NOI) on December 9, 2011 [76 FR 77008] to prepare environmental impact statements (EISs) and supplemental environmental impact statements to incorporate greater sage-grouse conservation measures into land use plans and land management plans. The BLM is the lead agency for this action and in the preparation of these EISs and Supplemental EISs and the Forest Service is participating as a cooperating agency. On February 10, 2012 [77 FR 7178] the BLM published a Notice of Correction that changed the names of the regions that are coordinating the Environmental Impact Statements and Supplemental EISs, extended the scoping period, and added 11 Forest Service Land Management Plans to this process. This notice has been published to ensure all stakeholders, interested in Forest Service activities, are aware of the Notice of Intent published by the BLM and are provided a complete list of potentially impacted forests and grasslands.

DATES: Consistent with the February 10, 2012, BLM Notice of Correction, comments on issues as part of the public scoping process for the EISs/SEISs may be submitted in writing until March 23, 2012.

ADDRESSES: You may submit comments related to the greater sage-grouse planning effort by any of the following methods:

- *Rocky Mountain Region:* Web site: *http://www.blm.gov/wo/st/en/prog/more/sagegrouse/eastern.html.* Email: *sageeast@blm.gov.* Fax: 307–775–6042. Mail: Eastern Region Project Manager, BLM Wyoming State Office, 5353 Yellowstone, Cheyenne, Wyoming 82009.
- *Great Basin Region:* Web site: *http://www.blm.gov/wo/st/en/prog/more/sagegrouse/western.html.* Email: *sagewest@blm.gov.* Fax: 775–861–6747. Mail: Western Region Project Manager, BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact:

- Johanna Munson, Rocky Mountain Region Project Manager, telephone 307–775–6329; address 5353 Yellowstone Road, Cheyenne, WY 82009; email *jmunson@blm.gov,* or:
- Lauren Mermejo, Great Basin Region Project Manager, telephone 775–861–6400; address 1340 Financial Boulevard, Reno, NV 89520; email *lmermejo@blm.gov,* or
- Glen Stein, Forest Service Project Manager, telephone 801–625–5281; address 324 25th Street, Ogden, UT 84401; email *gstein@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Although the majority of all scoping meetings have been completed, the date(s) and location(s) of any additional scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site for the Rocky Mountain Region at *http://www.blm.gov/wo/st/en/prog/more/sagegrouse/eastern.html,* and for the Great Basin Region at *http://www.blm.gov/wo/st/en/prog/more/sagegrouse/western.html.* Comments that are specific to a particular area, Resource Management Plan, or Land Management Plan should be identified as such. The BLM will provide additional opportunities for public participation upon publication of the Draft EISs/SEISs.

Following are the list of National Forests and Grassland potentially impacted:

Within the Rocky Mountain Region

- *Colorado*
  - Routt National Forest
- *Utah*
  - Ashley National Forest
  - Manti-Lasal National Forest
  - Wasatch-Cache National Forest
  - Uinta National Forest
- *Wyoming*
  - Thunder Basin National Grassland
  - Bridger-Teton National Forest
  - Medicine Bow National Forest

Within the Great Basin Region

- *Idaho*
  - Boise National Forest
  - Salmon National Forest
  - Challis National Forest
  - Targhee National Forest
  - Curlew National Grassland
  - Caribou National Forest
  - Sawtooth National Forest
- *Montana*
  - Beaverhead-Deerlodge National Forest
- *Nevada*
  - Humboldt National Forest
  - Toiyabe National Forest
- *Utah*
  - Dixie National Forest
  - Fishlake National Forest

Dated: February 21, 2012.

Faye L. Krueger,

Associate Deputy Chief, NFS.

[FR Doc. 2012–5048 Filed 3–1–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for the Rural Economic Development Loan and Grant Program for Fiscal Year 2012

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice is to invite applications for loans and grants under the Rural Economic Development Loan and Grant (REDLG) program pursuant to 7 CFR part 4280, subpart A for Fiscal Year (FY) 2012. Funding to support $33 million in loans and $10 million in grants is currently available. The commitment of program dollars will be made to applicants of selected responses that have fulfilled the necessary requirements for obligation. Expenses incurred in developing applications will be at the applicant's risk.

DATES: The deadline for receipt of applications in the USDA Rural Development State Office is no later than 4:30 p.m. (local time) on the last business day of each month in FY 2012.

ADDRESSES: Submit applications in paper format to the USDA Rural Development State Office in the state where your project is located. A list of the USDA Rural Development State Offices addresses and telephone numbers are as follows:

Alabama

USDA Rural Development State Office, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400/TDD (334) 279–3495

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7707/TDD (907) 761–8905

Arizona

USDA Rural Development State Office, 230 North First Avenue, Suite 206, Phoenix, AZ 85003–1706, (602) 280–8702/TDD (602) 280–8705

Arkansas

USDA Rural Development State Office, Federal Building, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200/TDD (501) 301–3279

California

USDA Rural Development State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5800/TDD (530) 792–5848

Colorado

USDA Rural Development State Office, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225–0426, (720) 544–2903/TDD (800) 659–3656

Delaware-Maryland

USDA Rural Development State Office, 1221 College Park Drive, Suite 200, Dover, DE 19904–8724, (302) 857–3580/TDD (302) 857–3585

Florida/Virgin Islands

USDA Rural Development State Office, 4440 NW. 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3400/TDD (352) 338–3499

Georgia

USDA Rural Development State Office, Stephens Federal Building, 355 East Hancock Avenue, Stop 300, Athens, GA 30601–2768, (706) 546–2162/TDD (706) 546–2034

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720–2486, (808) 933–8302/TDD (808) 933–8321

Idaho

USDA Rural Development State Office, 9173 West Barnes Drive, Suite A1, Boise, ID 83709–1574, (208) 378–5601/TDD (208) 378–5644

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821–2986, (217) 403–6200/TDD (217) 403–6240

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278–1996, (317) 290–3100 ext. 4/TDD (317) 290–3343

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309–2117, (515) 284–4663/TDD (515) 284–4858

Kansas

USDA Rural Development State Office, 1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2700/TDD (785) 271–2767

Kentucky

USDA Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503–5439, (859) 224–7300/TDD (859) 224–7422

Louisiana

USDA Rural Development State Office, 3727 Government Street, Alexandria, LA 71302–3327, (318) 473–7920/TDD (318) 473–7655

Maine

USDA Rural Development State Office, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9160/TDD (207) 942–7331

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4590

Michigan

USDA Rural Development State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823–6350, (517) 324–5190/TDD (517) 324–5169

Minnesota

USDA Rural Development State Office, 410 Agri-Bank Building, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7800/TDD (651) 602–3799

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269–1608, (601) 965–4211/TDD (601) 965–5850

Missouri

USDA Rural Development State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203–2579, (573) 876–0987/TDD (573) 876–9480

Montana

USDA Rural Development State Office, 2229 Boot Hill Court, P.O. Box 850, Bozeman, MT 59718–4011, (406) 585–2580/TDD (406) 585–2562

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508–3803, (308) 632–2195/TDD (402) 437–5093

Nevada

USDA Rural Development State Office, 1390 South Curry Street, Carson City, NV 89703–5146, (775) 887–1222/TDD (775) 885–0633

New Jersey

USDA Rural Development State Office, 5th Floor North, Suite 500, 8000 Midlantic Drive, Mt. Laurel, NJ 08054–1522, (856) 787–7700/TDD (856) 787–7784

New Mexico

USDA Rural Development State Office, 6200 Jefferson Street, Room 255, Albuquerque, NM 87109–3434, (505) 761–4950/TDD (505) 761–4938

New York

USDA Rural Development State Office, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6435/TDD (315) 477–6447

North Carolina

USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609–6293, (919) 873–2015/TDD (919) 873–2003

North Dakota

USDA Rural Development State Office, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2037/TDD (701) 530–2113

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2400/TDD (614) 255–2554

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1000/TDD (405) 742–1007

Oregon

USDA Rural Development State Office, 1201 Northeast Lloyd Blvd., Suite 801, Portland, OR 97232–1274, (503) 414–3305/TDD (503) 414–3387

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2262/TDD (717) 237–2261

Puerto Rico

USDA Rural Development State Office, IBM Building, Suite 601, 654 Munos Rivera Avenue, San Juan, PR 00918–6106, (787) 766–5095/TDD (787) 766–5332

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201–2449, (803) 765–5163/TDD (803) 765–5697

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 Fourth Street SW., Huron, SD 57350–2461, (605) 352–1100/TDD (605) 352–1147

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1071, (615) 783–1300

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501–7651, (254) 742–9700/TDD (254) 742–9712

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4321/TDD (801) 524–3309

Vermont/New Hampshire

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602–4449, (802) 828–6080/TDD (802) 223–6365

Virginia

USDA Rural Development State Office, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229–5014, (804) 287–1552/TDD (804) 287–1753

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard SW., Suite B, Olympia, WA 98512–5715, (360) 704–7740/TDD (360) 704–7760

West Virginia

USDA Rural Development State Office, 1550 Earl Core Road, Suite 101, Morgantown, WV 26505–7500, (304) 284–4860/TDD (304) 284–4836

Wisconsin

USDA Rural Development State Office, 4949 Kirschling Court, Stevens Point, WI 54481–7044, (715) 345–7600/TDD (715) 345–7614

Wyoming

USDA Rural Development State Office, P.O. Box 11005, 100 East B Street, Room 1005, Casper, WY 82601–5006, (307) 233–6703/TDD (307) 233–6733

FOR FURTHER INFORMATION CONTACT: The Rural Development State Office identified in this Notice where the project will be located.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Business-Cooperative Service.

Funding Opportunity Type: Rural Economic Development Loans and Grants.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance Number: 10.854.

Dates: Application Deadline: Completed applications must be received in the State Office by 4:30 p.m. (local time) on the last business day of each month in FY 2012.

I. Funding Opportunity Description

The regulations for these programs are at 7 CFR part 4280, subpart A. The primary objective of the program is to promote rural economic development and job creation projects. Assistance provided to rural areas, as defined, under this program may include business startup costs, business expansion, business incubators, technical assistance feasibility studies, advanced telecommunications services and computer networks for medical, educational, and job training services and community facilities projects for economic development. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4280, subpart A. Information required to be in the application includes an SF–424, ''Application for Federal Assistance;'' a Resolution of the Board of Directors; AD–1047, ''Debarment/Suspension Certification;'' Assurance Statement for the Uniform Act; Restrictions on Lobbying, AD 1049, ''Certification Regarding Drug-Free Workplace Requirements;'' Form RD 400–1, ''Equal Opportunity Agreement;'' Form RD 400–4, ''Assurance Agreement;'' Seismic Certification (if construction); Form RD 1940–20, ''Request for Environmental Information;'' RUS Form 7,''Financial and Statistical Report;'' and RUS Form 7a, ''Investments, Loan Guarantees, and Loans,'' or similar information; and written narrative of project description. Applications will be tentatively scored by the State Offices and submitted to the National Office for review.

Definitions

The definitions are published at 7 CFR 4280.3.

II. Award Information

Type of Awards: Loans and Grants.

Fiscal Year Funds: FY 2012.

Maximum Anticipated Award: Loans—$1,000,000; Grant—$300,000.

Anticipated Award Dates: The last day of the month following the month in which application was received.

III. Eligibility Information

A. Eligible Applicants

Loans and grants may be made to any entity that is identified by USDA Rural Development as an eligible borrower under the Rural Electrification Act. In accordance with 7 CFR 4280.13, applicants that are not delinquent on any Federal debt or otherwise disqualified from participation in these programs are eligible to apply. An applicant must be eligible under 7 U.S.C. 940c.

B. Cost Sharing or Matching

For loans, either the Ultimate Recipient or the Intermediary must provide supplemental funds for the project equal to at least 20 percent of the loan to the Intermediary. For grants, the Intermediary must establish a Revolving Loan Fund and contribute an amount equal to at least 20 percent of the Grant. The supplemental contribution must come from Intermediary's funds which may not be from other Federal Grants, unless permitted by law.

C. Other Eligibility Requirements

Applications will only be accepted for projects that promote rural economic development and job creation.

D. Completeness Eligibility

Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements.

IV. Fiscal Year 2012 Application and Submission Information

A. Address to Request Application Package

For further information, entities wishing to apply for assistance should contact the Rural Development State Office identified in this Notice to obtain copies of the application package.

Applicants are encouraged to submit applications through the Grants.gov Web site at: *http://www.grants.gov.* Applications may be submitted in either electronic or paper format. Users of Grants.gov will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov Web site. Applications may not be submitted by electronic mail.

- When you enter the Grants.gov Web site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or at *http://www.dnb.com.*
- You may submit all documents electronically through the Web site,

including all information typically included on the application for REDLGs and all necessary assurances and certifications.

• After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.

• USDA Rural Development may request that the applicant provide original signatures on forms at a later date.

• If applicants experience technical difficulties on the closing date and are unable to meet the deadline, you may submit a paper copy of your application to your respective Rural Development State Office. Paper applications submitted to a Rural Development State Office must meet the closing date and local time deadline.

Please note that applicants must locate the downloadable application package for this program by the Catalog of Federal Domestic Assistance Number or FedGrants Funding Opportunity Number, which can be found at *http://www.grants.gov.*

B. Content and Form of Submission

An application must contain all of the required elements. Each selection priority criterion outlined in 7 CFR 4280.42(b), must be addressed in the application. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the application. Copies of 7 CFR part 4280, subpart A, will be provided to any interested applicant making a request to a Rural Development State Office listed in this notice.

C. Submission Dates and Times

Application Deadline Dates: 4:30 p.m. (local time) on the last business day of each month.

Explanation of Deadlines: Applications must be in the Rural Development State Office by the deadline dates as indicated above.

V. Application Review Information

The National Office will score applications based on the grant selection criteria and weights contained in 7 CFR part 4280, subpart A, and will select an Intermediary subject to the Intermediary's satisfactory submission of the additional items required by 7 CFR part 4280, subpart A, and the USDA Rural Development Letter of Conditions.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive notification for funding from the Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the loan/grant award will be approved. Provided the application requirements have not changed, an application not selected will be reconsidered in three subsequent funding competitions for a total of four competitions. If an application is withdrawn, it can be resubmitted and will be evaluated as a new application.

B. Administrative and National Policy Requirements

Additional requirements that apply to Intermediary's selected for this program can be found in 7 CFR part 4280, subpart A. Applicable provisions of 7 CFR parts 3015, 3019, and 3052 also apply.

VII. Agency Contacts

For general questions about this announcement, please contact your Rural Development State Office identified in this Notice.

VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the information collection requirement contained in this Notice is approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0024.

Federal Funding Accountability and Transparency Act

All grant applicants, in accordance with 2 CFR part 25, must have a Dun and Bradstreet Data Universal Number System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webor.* Similarly, in accordance with 2 CFR part 25, all applicants must be registered in the Central Contractor Registration (CCR) prior to submitting an application. Applicants may register for the CCR at *http://www.ccr.gov,* or by calling 1–866–606–8220 and press ''1'' for CCR. All recipients of Federal financial grant assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR Part 170.

Nondiscrimination Statement:

''The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Stop 9410, Washington, DC 20250–9410 or call toll-free at (866) 632–9992 (English) or (800) 877–8339 (TTD) or (866) 377–8642 (English Federal-relay) or (800) 845–6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

February 23, 2012.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2012–5043 Filed 3–1–12; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2008 Panel of the Survey of Income and Program Participation, Wave 13 Topical Module.

OMB Control Number: 0607–0944.

Form Number(s): SIPP 281305(L), Director's Letter: SIPP 281305(L)SP, Director's Letter (Spanish); SIPP/CAPI Automated Instrument.

Type of Request: Revision of a currently approved collection.

Burden Hours: 143,303.

Number of Respondents: 94,500.

Average Hours per Response: 30 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct a topical module during the Wave 13 interview for the 2008 Panel of the Survey of Income and Program Participation (SIPP). The core SIPP and reinterview instruments were cleared under Authorization No. 0607–0944.

The SIPP represents a source of information for a wide variety of topics and allows information for separate topics to be integrated to form a single and unified database so that the interaction between tax, transfer, and other government and private policies can be examined. Government domestic policy formulators depend heavily upon the SIPP information concerning the distribution of income received directly as money or indirectly as in-kind benefits and the effect of tax and transfer programs on this distribution. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983, permitting levels of economic well-being and changes in these levels to be measured over time.

The survey is molded around a central ''core'' of labor force and income questions that remain fixed throughout the life of a panel. The core is supplemented with questions designed to answer specific needs, such as estimating eligibility for government programs, examining pension and health care coverage, and analyzing individual net worth. These supplemental questions are included with the core and are referred to as ''topical modules.''

The topical module planned for the 2008 Panel Wave 13 is Professional Certificates and Certifications. This topical module has not been previously conducted in the SIPP. Wave 13 interviews will be conducted from September 1, 2012 through December 31, 2012.

No topical modules were used in Wave 12 and none are planned in Waves 14 through 16 of the 2008 Panel. We plan to continue fielding the core and reinterview instruments through December 2013, which is the last rotation of Wave 16. Consequently, we did not submit an OMB package for Wave 12 and do not anticipate future OMB submissions for the 2008 Panel after Wave 13.

The SIPP is designed as a continuing series of national panels of interviewed households that are introduced every few years with each panel having durations of approximately 3 to 6 years. The 2008 Panel is scheduled for approximately 6 years and four months and includes sixteen waves which began September 1, 2008. All household members 15 years old or over are interviewed using regular proxy-respondent rules. They are interviewed a total of thirteen times (thirteen waves), at 4-month intervals, making the SIPP a longitudinal survey. Sample people (all household members present at the time of the first interview) who move within the country and reasonably close to a SIPP primary sampling unit (PSU) will be followed and interviewed at their new address. Individuals 15 years old or over who enter the household after Wave 1 will be interviewed; however, if these people move, they are not followed unless they happen to move along with a Wave 1 sample individual.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: February 28, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–5109 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 120127071–2071–01]

Commerce Business Apps Challenge

AGENCY: Office of the Secretary (OS), Department of Commerce.

ACTION: Notice.

SUMMARY: A key mission of both the Department of Commerce (DOC) is to help U.S. businesses grow and create jobs. Recently, the White House launched the BusinessUSA Initiative (*www.Business.USA.gov*) to help further these goals. This notice announces the Commerce Business Apps Challenge (*http://docbusinessapps.challenge.gov*) which DOC is launching to encourage members of the public to develop, using at least one DOC data set, an application (Web, mobile, PC, etc.) that assists businesses and/or improves the service delivery of *Business.USA.gov* to the business community. Specifically, we're looking for innovative ways to use DOC and other federal data and program information to help businesses:

- Learn about and evaluate opportunities, both here in the U.S. and internationally;
- Access useful government services, data, and market information;
- Fund business activities;
- Support education and training, and
- Facilitate or accelerate the pursuit of operating and growing their business.

This notice announces the BizApps Challenge and explains its terms and conditions, and prizes.

DATES: Contestants must register for the contest on this Web site by *creating an account* between February 22nd and April 30th, 2012. The judging period will run from May 1, 2012, 12 a.m. EDT to May 21, 2012, 11:59 p.m. EDT. DOC will announce contest winners on May 31, 2012, or soon thereafter.

FOR FURTHER INFORMATION CONTACT: Gordon Keller, by phone at 202–482–2490, or via email at *GKeller@doc.gov,* or Mike Kruger, by phone at 202–482–2556, or via email at *MKruger@doc.gov.*

SUPPLEMENTARY INFORMATION: To facilitate the public's awareness of the various types of DOC data available to businesses online and to enhance the usability and service delivery of the newly launched BusinessUSA Initiative (*www.Business.USA.gov*), DOC announces a contest, open to the public, to develop an application using at least one DOC data set, to assist businesses and/or improves the service delivery of *Business.USA.gov* to the business community.

You pick the technology* * *

- The web
- A personal computer
- A mobile handheld device, or
- Any platform broadly accessible to the open Internet

* * *we provide the data (or at least some of it).

DOC offers a wealth of economic, demographic, environmental, weather, international trade, scientific research and program data and in this challenge, we require that you *use at least one of our datasets* in your application. This data can be layered and/or combined with any other federal, state, local or publicly available information or datasets that you wish. Below are listed some repositories for DOC and other federal data:

- Commerce Data
  - U.S. Census Bureau—Population, household, housing, demographics. Economic census and monthly

indicators, foreign trade, employment statistics, maps, geographic data and more.

▪ *http://www.census.gov/*

▪ *http://www.census.gov/main/www/access.html*

○ International Trade Administration (ITA)—International market research, export assistance services, market access assistance, trade agreements

▪ *http://www.trade.gov*

▪ *http://www.export.gov*

○ U.S. Patent and Trademark Office (USPTO)—*www.uspto.gov*

○ National Oceanic and Atmospheric Administration (NOAA)—

▪ Climate Data—*http://www.ncdc.noaa.gov/oa/ncdc.html*

▪ Weather Data—*http://www.nws.noaa.gov/*

○ National Technical Information Service (NTIS)—Database of research sponsored by the U.S. and select foreign governments.

▪ *http://www.ntis.gov/products/ntisdb.aspx*

○ Economic Development Administration—*http://www.eda.gov*

○ Bureau of Economic Analysis (BEA)—*http://www.bea.gov/itable/index.cfm*

○ Bureau of Industry and Security (BIS)—*http://www.bis.doc.gov/*

○ Economic and Statistics Administration (ESA)—*http://www.esa.doc.gov*

○ National Telecommunications and Information Administration (NTIA)—*www.ntia.doc.gov*

○ All DOC's data sets on Data.Gov: (*http://www.data.gov/list/agency/1/0/catalog/raw/page/1/count/50*)

• *www.Data.gov*—repository for data and geodata from across the federal government, searchable by agency, data type, keyword, among others. Many, but not all Commerce data sets reside here.

• *http://www.data.gov/business*—A business specific section of Data.gov (above), this Web site features business-related datasets and applications from across the federal government.

Also:

• List of Open Data Sites Around the World: *http://www.data.gov/opendatasites*

• Amazon Listing of Public Data Sets: *http://aws.amazon.com/datasets*

• Washington DC: *http://data.octo.dc.gov*

• New York: *http://nyc.gov/data*

• San Francisco: *http://datasf.org/*

• U.K.: *http://data.gov.uk/*

These represent *only a partial list* of data repositories, and contestants are encouraged to use others as needed.

What's in it for you?

The applications that best satisfy the competition criteria will receive cash prizes up to $5,000 for the first prize winner. We encourage contestants to combine DOC data with other publicly accessible data feeds from around the Web, and to be creative in exploring approaches for realizing the goals.

How To Enter

Contestants must register for the contest on this Web site by *creating an account* between February 6 and April 30, 2012. Registrants will receive an email to verify their account and may then enter their submissions via the ''Post a Submission'' tab (Submissions).

1. Submissions may be any kind of software tool, be it for the Web, a personal computer, a mobile handheld device, console, or any platform broadly accessible to the open Internet.

2. A Submission may be disqualified if it does not function as expressed in the description or if it does not comply with the contest entry criteria (e.g., use of at least one DOC dataset).

3. All Submissions must be available for public use and evaluation by April 30, 2012 in order to be considered for judging purposes.

4. Once a Submission is made, the Contestant cannot make any changes or alterations to the Submission until the judging is complete. The approximate date by which the judging will be complete is May 21, 2012.

For all Submissions, the Contestant agrees that DOC will have the ability to release the code as open source at its discretion (see *Rules* for more details).

Important Dates

Submission Period

Start: February 6, 2012 12 a.m. EDT. End: April 30, 2012 11:59 p.m. EDT.

Judging Period

Start: May 1, 2012 12 a.m. EDT. End: May 21, 2011 11:59 p.m. EDT.

Winners announced: May 31, 2011 12 a.m. EDT, or soon thereafter.

Judges

An exclusive panel of high-profile judges will evaluate and vote on the entries. The panel includes:

- John Bryson, Secretary of Commerce
- Steven Van Roekel, Federal CIO
- Sheryl Sandberg, Chief Operating Officer, Facebook
- Vint Cerf, Chief Internet Evangelist, Google
- Tim O'Reilly, founder and CEO of O'Reilly Media
- Vivek Kundra, Executive Vice President of Emerging Markets, Salesforce.com

Judging Criteria

1. Use of DOC Data (20%)

Does the application use a novel combination of relevant data sets, including *at least one* dataset from one of Commerce's bureaus?

- Bureau of Economic Analysis (BEA)
- Bureau of Industry and Security (BIS)
- U.S. Census Bureau
- Economic Development Administration (EDA)
- Economic and Statistics Administration (ESA)
- International Trade Administration (ITA)
- National Oceanic and Atmospheric Administration (NOAA)
- National Telecommunications Administration (NTIA)
- National Institute of Standards and Technology (NIST)
- National Technical Information Service (NTIS)
- U.S. Patent and Trademark Office (USPTO)

Note: All submissions must cite data sources and note calculations, derivation and mash-ups from the source(s).

2. Usability and Interface Design (20%)

Is the application implemented in a functional and elegant fashion?

3. Relevance to Stated Objective (40%)

Does the application meet the mission defined for this challenge?

4. Creativity

Is the application and concept creative and interesting? (20%)

Prizes

First Place—$5,000 (1 prize)
Second Place—$3,000 (1 prize)
Third Place—$2,000 (1 prize)

Official Rules

Official Rules

1. Eligibility: The U.S. Department of Commerce (DOC)—DOC BizApps Challenge is open only to: (1) Citizens or permanent residents of the United States who are at least thirteen (13) years old at the time of entry (or teams of eligible individuals); and (2) private entities, such as corporations or other organizations, that are incorporated in and maintain a primary place of business in the United States. Individuals submitting on behalf of corporations, nonprofits, or groups of individuals (such as an academic class or other team) must meet the eligibility requirements for individual participants. An individual may join more than one team, corporation, or nonprofit organization. DOC employees and members of their immediate family (spouses, children, siblings, parents), and persons living in the same household as such persons, whether or not related, are not eligible to participate in the Competition.

2. Competition Subject to Applicable Law: The Competition is subject to all applicable federal laws and regulations. Participation constitutes each Participant's full and unconditional agreement to these Official Rules and administrative decisions, which are final and binding in all matters related to the Competition. Eligibility for a prize award is contingent upon fulfilling all requirements set forth herein. This notice is not an obligation of funds; the final award of prizes is contingent upon the availability of appropriations.

3. Competition Submission Period: Developers must submit their original application between February 6, 2012 and April 30, 2012. Submissions will be published on *Challenge.gov* as they are received throughout the competition submission period.

4. Teams: Challenge submissions can be from an individual or a team. Prize money will be awarded to the project leader for distribution to the rest of the team.

5. Required Datasets: Submissions must use at least one DOC dataset, such as those available at *http://www.data.gov.* In addition, you can combine data and resources from this or any other public sources online. We anticipate winning entries to draw from the DOC data sources, but to combine them with one another, as well as any of an interesting array of publicly available resources, geospatial and/or location data, etc.

6. Intellectual Property Rights: All submissions to the DOC BizApps Challenge remain the intellectual property of the individuals or organizations that developed them. By registering, consenting to the terms of the challenge, and entering a Submission, however, the Participant agrees that DOC reserves an irrevocable, nonexclusive, royalty-free license to use, copy, distribute to the public, create derivative works from, and publicly display and perform a Submission for a period of one year starting on the date of the announcement of contest winners.

7. Copyright: Participant represents and warrants that he or she is the sole author and copyright owner of the Submission, and that the Submission is an original work of the Participant, or if the Submission is a work based on an existing application, that the Participant has acquired sufficient rights to use and to authorize others, including DOC, to use the Submission, as specified in the ''Intellectual Property Rights'' section of the Rules; and that the Submission does not infringe upon any copyright or upon any other third party rights of which the Participant is aware, and that the Submission is free of malware.

8. Submission Topic/Theme: All Submissions should meet the intent and spirit of the challenge, as previously defined in the challenge summary.

9. Judges: The Submissions will be judged by the judges identified in the challenge details or by another qualified panel selected by DOC at its sole discretion. The panel will judge the Submissions on the judging criteria identified in the challenge summary in order to select winners in each category. Judges have the right to withdraw without advance notice in the event of circumstances beyond their control. Judges may not (A) have personal or substantial (over $500) financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or (B) have a familial or financial relationship with an individual who is a registered participant.

10. Decisions: The decisions of the judges will be announced on or about May 31st, 2012 on *Challenge.gov.*

11. Publicity: Except where prohibited, participation in the Competition constitutes each winner's consent to DOC's and its agents' use of each winner's name, likeness, photograph, voice, opinions, and/or hometown and state information for promotional purposes through any form of media, worldwide, without further permission, payment or consideration.

12. Liability and Insurance: Any and all information provided by or obtained from the Federal Government is without any warranty or representation whatsoever, including but not limited to its suitability for any particular purpose. Upon registration, all participants agree to assume and, thereby, have assumed any and all risks of injury or loss in connection with or in any way arising from participation in this competition, development of any application or the use of any application by the participants or any third-party. Upon registration all participants agree to and, thereby, do waive and release any and all claims or causes of action against the Federal Government and its officers, employees and agents for any and all injury and damage of any nature whatsoever (whether existing or thereafter arising, whether direct, indirect, or consequential and whether foreseeable or not), arising from their participation in the contest, whether the claim or cause of action arises under contract or tort. Upon registration, all participants agree to and, thereby, shall indemnify and hold harmless the Federal Government and its officers, employees and agents for any and all injury and damage of any nature whatsoever (whether existing or thereafter arising, whether direct, indirect, or consequential and whether foreseeable or not), including but not limited to any damage that may result from a virus, malware, etc., to Government computer systems or data, or to the systems or data of end-users of the software and/or application(s) which results, in whole or in part, from the fault, negligence, or wrongful act or omission of the participants or participants' officers, employees or agents.

Based on the subject matter of the Competition, the type of work that it possibly will require, and the likelihood of any claims for death, bodily injury, or property damage, or loss potentially resulting from challenge participation, Participant is not required to obtain liability insurance or demonstrate fiscal responsibility in order to participate in this Competition.

13. Standard Disclaimer: The following disclaimer is mandatory for applications deployed on non-DOC information systems. This standard disclaimer shall be incorporated into the software in such a way that individuals must read and accept its conditions before initial use (**Note:** The standard disclaimer must appear in all capital letters):

THE MATERIAL EMBODIED IN THIS SOFTWARE IS PROVIDED TO YOU ''AS-IS'' AND WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL THE UNITED STATES DEPARTMENT OF COMMERCE OR THE UNITED STATES GOVERNMENT BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DIRECT, SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE, SAVINGS OR REVENUE, OR THE CLAIMS OF THIRD PARTIES, WHETHER OR NOT DOC OR THE U.S. GOVERNMENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE POSSESSION, USE, OR PERFORMANCE OF THIS SOFTWARE.

14. Records Retention and FOIA: All materials submitted to DOC as part of a Submission become DOC records and cannot be returned. Any confidential commercial information contained in a Submission should be designated at the time of submission. Submitters will be notified of any Freedom of Information Act requests for their Submissions in accordance with 29 CFR 70.26.

15. 508 Compliance: Participants should keep in mind that the Department of Commerce considers universal accessibility to information a priority for all individuals, including individuals with disabilities. In this regard, the Department is strongly committed to meeting its compliance obligations under Section 508 of the Rehabilitation Act of 1973, as amended, to ensure the accessibility of its programs and activities to individuals with disabilities. This obligation includes acquiring accessible electronic and information technology. When evaluating Submissions for this contest, the extent to which a Submission complies with the requirements for accessible technology required by Section 508 will be considered.

Dated: February 22, 2012.

Simon Szykman,

Official, CIO, Office of the Secretary, U.S. Department of Commerce.

[FR Doc. 2012–5051 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 120131080–2080–01]

Public Availability of Department of Commerce FY2011 Service Contract Inventory

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice of Public Availability of FY 2011 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Department of Commerce is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2011 Service Contract Inventory and a report that analyzes the Department's FY 2010 Service Contract Inventory. The service contract inventory provides information on service contract actions over $25,000 made in FY 2011. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance memo on service contract inventories issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

ADDRESSES: The Department of Commerce has posted its FY 2011 inventory and a summary on the Office of Acquisition Management homepage at the following link *http://www.osec.doc.gov/oam/*. OFPP's guidance memo on service contract inventories is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Virna Winters, Director for Acquisitions and Grants Division at 202–482–4248 or *vwinters@doc.gov.*

Scott Quehl,

Chief Financial Officer and Assistant Secretary for Administration.

[FR Doc. 2012–5160 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the Census Scientific Advisory Committee (C–SAC). The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics. Last minute changes to the agenda are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: March 22 and 23, 2012. On March 22, the meeting will begin at approximately 8:30 a.m. and adjourn at approximately 5 p.m. On March 23, the meeting will begin at approximately 8:30 a.m. and adjourn at 12:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Conference Center, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Members of the C–SAC are appointed by the Director, U.S. Census Bureau. The Committee provides scientific and technical expertise, as appropriate, to address Census Bureau program needs and objectives. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10).

The meeting is open to the public, and a brief period is set aside for public comments and questions. Persons with extensive questions or statements must submit them in writing at least three days before the meeting to the Committee Liaison Officer named above. If you plan to attend the meeting, please register by Monday, March 19, 2012. You may access the online registration form with the following link: *http://www.regonline.com/csacmar2012.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Dated: February 27, 2012.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. 2012–5153 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

[Foreign-Trade Zones Board; Docket 11–2012]

Foreign-Trade Zone 104—Savannah, GA Expansion of Manufacturing Authority Mitsubishi Power Systems Americas, Inc. (Power Generation Turbines) Pooler, GA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting an expansion of the scope of manufacturing authority approved within Site 12 of FTZ 104, on behalf of Mitsubishi Power Systems Americas, Inc. (MPSA), in Pooler, Georgia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 23, 2012.

The MPSA facility (''Savannah Machinery Works,'' 175 employees, 119 acres) is located at 1000 Pine Meadow Drive within the Pooler Megasite (Site 12) in Pooler (Chatham County), Georgia. In 2011, the FTZ Board approved a request submitted by the Savannah Airport Commission on behalf of MPSA for authority to manufacture and repair steam and natural gas power generation turbine components (combustor baskets, transition pieces, and rotors) for export and the domestic market (Board Order 1757, 76 FR 28418, 5–17–2011).

The current application involves an expansion of MPSA's existing scope of manufacturing authority to include additional finished products—steam and natural gas power generation turbines (up to 24 turbines per year). New components and materials sourced from abroad (representing 40% of the value of the finished turbines) include: Rubber o-rings and seals, articles of steel (plates, flanges, expansion joints, covers), fasteners, compressors, bearing housings, metal gaskets, mechanical seals and rings, actuators, thermocouple assemblies, vibration sensors, and automated controllers (duty rate ranges from free to 6.2%).

FTZ procedures could exempt MPSA from customs duty payments on the additional foreign components used in export production. The company anticipates that up to 15 percent of the plant's turbine production will be exported. On its domestic sales, MPSA would be able to choose the duty rates during customs entry procedures that apply to steam and gas power generation turbines (duty rates: 2.5, 6.7%) for the additional foreign inputs

noted above. The request indicates that the savings from FTZ procedures help improve the plant's international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002. The closing period for receipt of comments is May 1, 2012. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 16, 2012.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz*. For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 23, 2012.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2012–5155 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–801, C–403–802]

Fresh and Chilled Atlantic Salmon From Norway: Revocation of Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the International Trade Commission (the ''ITC'') that revocation of the antidumping duty (''AD'') and countervailing duty (''CVD'') orders on fresh and chilled Atlantic salmon (''salmon'') from Norway would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States, the Department of Commerce (the ''Department'') is revoking these AD and CVD orders.

DATES: *Effective Date:* February 13, 2011.

FOR FURTHER INFORMATION CONTACT: Eric Greynolds, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6071.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2011, the Department initiated and the ITC instituted sunset reviews of the AD and CVD orders on salmon from Norway, pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (the ''Act''), respectively. *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 89 (January 3, 2011); *Fresh and Chilled Atlantic Salmon From Norway,* 76 FR 166 (January 3, 2011). As a result of its reviews, the Department found that revocation of the AD order would likely lead to continuation or recurrence of dumping and that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidization, and notified the ITC of the margins of dumping and the subsidy rates likely to prevail were the orders revoked. *See Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Antidumping Duty Order,* 76 FR 70409 (November 14, 2011), and *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order,* 76 FR 70411 (November 14, 2011).

On February 23, 2012, the ITC published its determination, pursuant to section 751(c) of the Act, that revocation of the AD and CVD orders on salmon from Norway would not be likely to lead to the continuation or recurrence of material injury within a reasonably foreseeable time. *See Fresh and Chilled Atlantic Salmon from Norway,* 77 FR 10772 (February 23, 2012) and USITC Publication 4303 (February 2012), entitled *Fresh and Chilled Atlantic Salmon from Norway* (Inv. Nos. 701–TA–302 and 731–TA–454 (Third Review)).

Scope of the Orders

The product covered by the orders is the species Atlantic salmon (Salmo Salar) marketed as specified herein; the order excludes all other species of salmon: Danube salmon, Chinook (also called ''king'' or ''quinnat''), Coho (''silver''), Sockeye (''redfish'' or ''blueback''), Humpback (''pink'') and Chum (''dog'').[1] Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice (''chilled''). Excluded from the subject merchandise are fillets, steaks and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 0302.12.0003 and 0302.12.0004.

The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Determination

As a result of the determinations by the ITC that revocation of these AD and CVD orders would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department is revoking the AD and CVD orders on salmon from Norway. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is February 13, 2011 (*i.e.,* the fifth anniversary of the effective date of publication in the **Federal Register** of the continuation of these orders).[2]

The Department will notify U.S. Customs and Border Protection, 15 days after publication of this notice, to terminate suspension of liquidation and collection of cash deposits on entries of the subject merchandise, entered or withdrawn from warehouse, on or after February 13, 2011. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping and/or countervailing duty deposit requirements.

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

[1] On August 5, 2009, the Department made a final scope ruling determining that whole salmon steaks are within the scope of the order. *See Notice of Scope Rulings,* 75 FR 14138 (March 24, 2010).

[2] *See Continuation of Antidumping and Countervailing Duty Orders: Fresh and Chilled Atlantic Salmon from Norway,* 71 FR 7512 (February 13, 2006).

These five-year (sunset) reviews and notice are in accordance with section 751(d)(2) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: February 24, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. 2012–5024 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893]

Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results, Partial Rescission, Extension of Time Limits for the Final Results, and Intent To Revoke, in Part, of the Sixth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp (''shrimp'') from the People's Republic of China (''PRC''), covering the period of review (''POR'') of February 1, 2010, through January 31, 2011. As discussed below, the Department preliminarily determines that the respondents in this review did not make sales in the United States at prices below normal value (''NV'') during the POR.

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta or Bob Palmer, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2593 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department received timely requests from the Ad Hoc Shrimp Trade Action Committee (''Petitioners''), the American Shrimp Processors Association (''Domestic Processors''), Zhanjiang Regal Integrated Marine Resources Co., Ltd. (''Regal''), and Hilltop [1] in accordance with 19 CFR 351.213(b), during the anniversary month of February, for administrative reviews of the antidumping duty order on shrimp from the PRC. The request for review submitted by Hilltop also included a request for company-specific revocation, pursuant to 19 CFR 351.222(b)(2).[2] On March 31, 2011, the Department initiated an administrative review of 84 producers/exporters of subject merchandise from the PRC.[3] On July 11, 2011, the Department received a submission from Domestic Processors requesting that the Department verify the factual information submitted by Hilltop, pursuant to 19 CFR 351.307(b)(v)(A).[4]

On March 29, 2011, the Department received a ''no shipment certification'' [5] from Shantou Yuexing Enterprise Company. In its certification, Shantou Yuexing Enterprise Company also requested that the Department rescind the review with respect to Shantou Yuexing Enterprise Company, pursuant to 19 CFR 351.213(d)(3).[6]

Respondent Selection

On May 9, 2011, in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (''Act''), the Department selected Hilltop and Regal for individual examination in this review, since they were the largest exporters by volume during the POR, based on U.S. Customs and Border Protection (''CBP'') data of U.S. imports.[7]

Questionnaires

On May 9, 2011, the Department issued its initial non-market economy (''NME'') antidumping duty questionnaire to Hilltop and Regal, and issued supplemental questionnaires to Hilltop and Regal between July 2011 and January 2012. Hilltop and Regal responded to the Department's initial and subsequent supplemental questionnaires between August 2011 and January 2012.

Surrogate Country and Surrogate Values

On June 21, 2011, the Department sent interested parties a letter requesting comments on the surrogate country and information pertaining to the valuation of factors of production (''FOPs'').[8] On August 4, 2011, Petitioners submitted comments on the selection of a surrogate country, stating that Thailand was the appropriate surrogate country for this review.[9] On September 2, 2011, Hilltop submitted comments on the selection of a surrogate country, arguing that India, while not on the surrogate country list, is the appropriate surrogate country for this review.[10] On September 7, 2011, Domestic Processors submitted rebuttal comments to Hilltop's submission, stating that India is no longer the most appropriate surrogate country for this proceeding.[11] On September 23, 2011, the Department received comments from Petitioners regarding the valuation of FOPs.[12] On September 26, 2011, the Department received comments from Hilltop regarding the valuation of FOPs.[13] On October 12, 2011, the Department received rebuttal comments from Hilltop regarding the valuation of FOPs.[14] For a detailed discussion of the selection of the surrogate country, *see* ''Surrogate Country'' section below.

Case Schedule

On August 16, 2011, in accordance with section 751(a)(3)(A) of the Act, we extended the time period for issuing the preliminary results by 120 days, until February 28, 2012. *See Certain Frozen Warmwater Shrimp From the People's Republic of China: Extension of*

[1] Hilltop International, Yangjiang City Yelin Hoitat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Ocean Duke Corporation and Kingston Foods Corporation (collectively, ''Hilltop'').

[2] *See* Letter from Hilltop regarding Request for Administrative Review and Company-Specific Revocation dated February 28, 2011 (''Revocation Request'').

[3] *See Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review,* 76 FR 17825 (March 31, 2011) (''*Initiation*'').

[4] *See* Letter from Domestic Processors regarding Verification Request for Hilltop International dated July 11, 2011.

[5] Companies have the opportunity to submit statements certifying that they did not enter, export or sell subject merchandise to the United States during the POR.

[6] *See* Letter from Shantou Yuexing regarding Request for Rescinding an Administrative Review dated March 29, 2011.

[7] *See* Memorandum to James Doyle, Director, Office 9, from Bob Palmer, Case Analyst, Office 9, ''Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Selection of Respondents for Individual Review,'' dated May 9, 2011.

[8] *See* Letter from Catherine Bertrand, Program Manager, Office 9, to All Interested Parties dated June 21, 2011.

[9] *See* Letter from Petitioners regarding Comments on Surrogate Country Selection for the Sixth Administrative Review (2010–2011) dated August 4, 2011 (''Petitioners SC Comments'').

[10] *See* Letter from Hilltop regarding Surrogate Country Comment dated September 2, 2011 (''Hilltop SC Comments'').

[11] *See* Letter from Domestic Processors regarding Surrogate Country Comments dated September 7, 2011 (''Domestic Processors SC Comments'').

[12] *See* Letter from Petitioners regarding Data on Surrogate Values for the Sixth Administrative Review (2010–2011) dated September 23, 2011 (''Petitioners' SV Submission'').

[13] *See* Letter from Hilltop regarding Hilltop Group's First Surrogate Value Submission dated September 26, 2011 (''Hilltop SV Submission'').

[14] *See* Letter from Hilltop regarding First Surrogate Value Rebuttal dated October 12, 2011 (''Hilltop SV Rebuttal'').

Preliminary Results of Antidumping Duty Administrative Review, 76 FR 50718 (August 16, 2011).[15]

Scope of the Order

The scope of the order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[16] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of the order, regardless of definitions in the Harmonized Tariff Schedule of the United States (''HTS''), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, white-leg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguinensis,* fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of the order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of the order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTS subheading 1605.20.1020); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTS subheadings 0306.23.0020 and 0306.23.0040); (4) shrimp and prawns in prepared meals (HTS subheading 1605.20.0510); (5) dried shrimp and prawns; (6) Lee Kum Kee's shrimp sauce; (7) canned warmwater shrimp and prawns (HTS subheading 1605.20.1040); (8) certain dusted shrimp;[17] and (9) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (''IQF'') freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by the order are currently classified under the following HTS subheadings: 0306.13.0003, 0306.13.0006, 0306.13.0009, 0306.13.0012, 0306.13.0015, 0306.13.0018, 0306.13.0021, 0306.13.0024, 0306.13.0027, 0306.13.0040, 0306.17.0003, 0306.17.0006, 0306.17.0009, 0306.17.0012, 0306.17.0015, 0306.17.0018, 0306.17.0021, 0306.17.0024, 0306.17.0027, 0306.17.0040, 1605.20.1010, 1605.20.1030, 1605.21.1030, and 1605.29.1010. These HTS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of the order is dispositive.

Intent to Revoke, In Part

As noted above, in its request for review, Hilltop submitted a request for company-specific revocation pursuant to 19 CFR 351.222(e). Pursuant to section 751(d) of the Act, the Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751(a) of the Act. In determining whether to revoke an antidumping duty order in part, the Department considers: (1) Whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether during each of the three consecutive years for which the company sold the merchandise at not less than normal value, it sold the merchandise to the United States in commercial quantities; and (3) the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV. *See* 19 CFR 351.222(e)(1).

Hilltop's request for revocation was accompanied by certifications, pursuant to 19 CFR 351.222(e)(1), stating that Hilltop and its U.S. affiliates have sold subject merchandise at not less than NV for at least three consecutive review periods and that they will not sell the merchandise at less than NV in the future, and that Hilltop and its U.S. affiliates sold subject merchandise to the United States in commercial quantities for at least three consecutive review periods.[18] Hilltop and its U.S. affiliates also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to its revocation, they sold the subject merchandise at less than NV.[19]

We have preliminarily determined that the request from Hilltop meets all of the criteria under 19 CFR

[15] On February 10, 2012, Domestic Processors submitted comments alleging discrepancies between the CBP data released by the Department for purposes of respondent selection and the sales quantities reported by Regal. *See* Domestic Processors' Comments on Subject Merchandise Covered in the Sixth Administrative Review dated February 10, 2012. However, due to its submission in close proximity to the preliminary results deadline, the Department is not addressing those comments at this time. However, Domestic Processors' comments will be closely reviewed and appropriately addressed for the final results of this review.

[16] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

[17] On April 26, 2011, the Department amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade (''CIT'') decision in *Ad Hoc Shrimp Trade Action Committee v. United States,* 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission (''ITC'') determination, which found the domestic like product to include dusted shrimp. Because the amendment of the antidumping duty order occurred after this POR, dusted shrimp continue to be excluded in this review. *See Certain Frozen Warmwater Shrimp from Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision,* 76 FR 23277 (April 26, 2011); *see also Ad Hoc Shrimp Trade Action Committee v. United States,* 703 F. Supp. 2d 1330 (CIT 2010) and *Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam* (Investigation Nos. 731–TA–1063, 1064, 1066–1068 (Review), USITC Publication 4221, March 2011. However, we note that this review only covers suspended entries that did not include dusted shrimp, but cash deposits going forward will apply to dusted shrimp.

[18] *See* Revocation Request and Hilltop's Third Supplemental questionnaire response dated December 7, 2011 (''Hilltop Third Supplemental Questionnaire''), at Exhibit 4.

[19] *See id.*

351.222(e)(1). Our preliminary margin calculation confirms that Hilltop and its U.S. affiliates sold subject merchandise at not less than NV during the current review period. *See* the ''Preliminary Results of the Review'' section below. In addition, we have confirmed that Hilltop and its U.S. affiliates sold subject merchandise at not less than NV in the two previous administrative reviews in which Hilltop was individually examined (*i.e.,* its dumping margins were zero or *de minimis*).[20]

Based on our examination of the sales data submitted by Hilltop and its U.S. affiliates, we preliminarily determine that they sold subject merchandise in the United States in commercial quantities in each of the consecutive review periods cited by Hilltop and its U.S. affiliates to support their request for revocation.[21] Thus, we preliminarily find that Hilltop had a zero or *de minimis* dumping margin for each of the last three years and sold subject merchandise in commercial quantities during each of these years. Also, we preliminarily determine, pursuant to section 751(d) of the Act and 19 CFR 351.222(b)(2), that the application of the antidumping duty order with respect to Hilltop is no longer warranted for the following reasons: (1) The company had a zero or *de minimis* margin for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and, (3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we preliminarily determine that subject merchandise produced and/or exported by Hilltop qualifies for revocation from the antidumping duty order on certain frozen warmwater shrimp from the PRC. If these preliminary findings are affirmed in our final results, we will revoke this order, in part, with respect to certain frozen warmwater shrimp produced and/or exported by Hilltop and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any of the merchandise in question that is entered, or withdrawn from warehouse, for consumption on or after February 1, 2011, and instruct CBP to release any cash deposits for such entries.

Affiliation/Single Entity

In the fifth administrative review of this proceeding, we found Hilltop affiliated with Yangjiang City Yelin Hoitat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, Ever Hope International Co., Ltd., and Ocean Duke Corporation. Further, we found Hilltop, Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, and Ever Hope International Co., Ltd. to be a single entity.[22] Hilltop has not submitted any information in this review that would warrant any change to our finding in the fifth administrative review. However, in this administrative review, Hilltop stated in its questionnaire responses that the only affiliation change since the previous review was the establishment of a new U.S. affiliate, Kingston Foods Corporation (''Kingston'').[23] Hilltop described Kingston's ownership and submitted an affiliation chart showing Kingston's relationship to Hilltop and its other affiliates.[24] Accordingly, we preliminarily determine that Kingston is an affiliate of Hilltop pursuant to sections 771(33)(A) and (F) of the Act, based on common ownership and control by a family grouping.

Preliminary Partial Rescission of Review

As discussed in the *Background* section above, Shantou Yuexing Enterprise Company filed a no shipment certification indicating that it did not export subject merchandise to the United States during the POR. The Department's practice concerning ''no-shipment'' respondents has been to rescind the administrative review if the respondent certifies that it had no shipments and the Department has confirmed through its examination of data from CBP that there were no shipments of subject merchandise during the POR.[25]

On May 19, 2011, the Department sent an inquiry to CBP to determine whether CBP entry data is consistent with Shantou Yuexing Enterprise Company's no shipments certification and received no information contrary to that statement. As CBP only responds to the Department's inquiry when there are records of shipments from the company in question [26] and no party submitted comments, we preliminarily determine that Shantou Yuexing Enterprise Company had no shipments during the POR. Therefore, we are preliminarily rescinding the review with respect to Shantou Yuexing Enterprise Company.[27]

NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority.[28] Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates

A designation of a country as an NME remains in effect until it is revoked by the Department.[29] Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.[30]

[20] *See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 75 FR 49460 (August 13, 2010), and *Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 51940 (August 19, 2011).

[21] *See* Hilltop Third Supplemental Questionnaire, at Exhibit 3.

[22] *See Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review,* 76 FR 8338 (February 14, 2011) (''*PRC Shrimp AR5 Prelim*''); unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 51940, 51941–42 (August 19, 2011) (''*PRC Shrimp AR5 Final*'').

[23] *See* Hilltop's Section C questionnaire response dated July 14, 2011 (''Hilltop SCQR''), at 1; *see* also Hilltop's Supplemental Section A questionnaire response dated August 14, 2011 (''Hilltop Supp A''), at 6.

[24] *See* Hilltop's Supp A at 1 and Hilltop's Supplemental ACD questionnaire response dated September 14, 2011 (''Hilltop SuppACD''), at Exhibit SS–2.

[25] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27393 (May 19, 1997).

[26] *See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review,* 75 FR 65453, 65454 (October 25, 2010); *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Rescind Administrative Review,* 74 FR 3559, 3560 (January 21, 2009); and *Certain In–Shell Raw Pistachios from Iran: Rescission of Antidumping Duty Administrative Review,* 73 FR 9292, 9293 (February 20, 2008).

[27] *See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 72 FR 53527, 53530 (September 19, 2007), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479, 15480 (March 24, 2008).

[28] *See Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review,* 71 FR 66304 (November 14, 2006).

[29] *See* section 771(18)(C) of the Act.

[30] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical*

Continued

In the *Initiation,* the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings. *See Initiation.*[31] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure)* and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China,* 59 FR 22585 (May 2, 1994). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a further separate rate analysis is not necessary to determine whether it is independent from government control.[32]

In this administrative review, the Department received completed responses to the Section A portion of the NME antidumping questionnaire from Hilltop and Regal, which contained information pertaining to the companies' eligibility for a separate rate.[33] All other companies upon which the Department initiated an administrative review that have not been rescinded did not submit either a separate rate application or certification. Therefore, we have determined it appropriate to find that these companies did not demonstrate their eligibility for separate rate status and are properly considered part of the PRC-wide entity.

Separate Rate Recipients

Wholly Foreign-Owned

Hilltop has reported that it is a Hong Kong based exporter of subject merchandise.[34] Regal has reported that it is a wholly foreign-owned enterprise.[35] Therefore, there is no PRC ownership of Hilltop or Regal, and because the Department has no evidence indicating that either of these companies are under the control of the PRC, further separate rate analysis is not necessary to determine whether they are independent from government control.[36] Consequently, we preliminarily determine that Hilltop and Regal have met the criteria for a separate rate.

In the *Initiation,* we instructed all companies requesting separate rate status in this administrative review to submit, as appropriate, either a separate rate status application or certification. As discussed above, the Department initiated this administrative review with respect to 84 companies and is preliminarily rescinding this review with respect to Shantou Yuexing Enterprise Company. Thus, including Hilltop and Regal, 83 companies remain subject to this review. While Hilltop and Regal provided documentation supporting their eligibility for a separate rate, the remaining companies under active review have not demonstrated their eligibility for a separate rate. Therefore, the Department preliminarily determines that there were exports of merchandise under review from 81 PRC exporters that did not demonstrate their eligibility for separate rate status.[37] As a result, the Department is treating these 81 PRC exporters as part of the PRC-wide entity, subject to the PRC-wide rate.

PRC-Wide Entity

We have preliminarily determined that 81 companies did not demonstrate their eligibility for a separate rate and are properly considered part of the PRC-wide entity. As explained above in the *Separate Rates* section, all companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single antidumping duty rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to

Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China,* 71 FR 29303 (May 22, 2006).

[31] In the *Initiation,* the Department inadvertently stated that Separate Rate Certifications are due no later than 30 days after publication of the initiation notice, rather than the standard deadline of 60 days. This was corrected in *Initiation of Antidumping and Countervailing Duty Administrative Reviews; Correction,* 76 FR 24855 (May 3, 2011).

[32] *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China,* 72 FR 52355, 52356 (September 13, 2007).

[33] *See* Hilltop's Section A questionnaire response dated June 15, 2011 (''Hilltop SAQR''), at 3–4, and Regal's Section A questionnaire response dated June 10, 2011 (''Regal SAQR''), at 2.

[34] *See* Hilltop SAQR at 1.

[35] *See* Regal SAQR at 2.

[36] *See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review,* 66 FR 1303, 1306 (January 8, 2001), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review,* 66 FR 27063 (May 16, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China,* 64 FR 71104 (December 20, 1999).

[37] Those companies are: Allied Pacific Aquatic Products Zhanjiang Co Ltd., Allied Pacific Food (Dalian) Co., Ltd., Asian Seafoods (Zhanjiang) Co., Ltd., Beihai Evergreen Aquatic Product Science And Technology Co Ltd., Beihai Qinguo Frozen Foods Co., Ltd., Capital Prospect, Dalian Hualian Foods Co., Ltd., Dalian Shanhai Seafood Co., Ltd., Dalian Z&H Seafood Co., Ltd., Ever Hope International Co., Ltd., Everflow Ind. Supply, Flags Wins Trading Co., Ltd., Fuchang Aquatic Products Freezing, Fujian Chaohui International Trading, Fuqing Minhua Trade Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Fuqing Yiyuan Trading Co., Ltd., Gallant Ocean (Nanhai), Ltd., Guangdong Jiahuang Foods, Guangdong Jinhang Foods Co., Ltd., Guangdong Wanya Foods Fty. Co., Ltd., Hai Li Aquatic Co., Ltd., Hainan Brich Aquatic Products Co., Ltd., Hainan Golden Spring Foods Co., Ltd., Hainan Hailisheng Food Co., Ltd., Hainan Seaberry Seafoods Corporation, Hainan Xiangtai Fishery Co., Ltd., Haizhou Aquatic Products Co., Ltd., Hua Yang (Dalian) International, Jet Power International Ltd., Jin Cheng Food Co., Ltd., Leizhou Yunyuan Aquatic Products Co., Ltd., Maple Leaf Foods International, North Seafood Group Co., Panasonic Mfg. Xiamen Co., Phoenix Intl., Rizhao Smart Foods, Ruían Huasheng Aquatic Products Processing Factory, Savvy Seafood Inc., Sea Trade International Inc., Shanghai Linghai Fisheries Trading Co. Ltd., Shanghai Smiling Food Co., Ltd., Shanghai Zhoulian Foods Co., Ltd., Shantou Jiazhou Foods Industry, Shantou Jin Cheng Food Co., Ltd., Shantou Longfeng Foodstuff Co., Ltd., Shantou Longsheng Aquatic Product Foodstuff Co., Ltd., Shantou Ruiyuan Industry Company Ltd., Shantou Wanya Foods Fty. Co., Ltd., Shantou Xinwanya Aquatic Product Ltd Company, Shantou Yue Xiang Commercial Trading Co., Ltd., Shengsi Huali Aquatic Co., Ltd., SLK Hardware, Thai Royal Frozen Food Zhanjiang Co., Ltd., Tongwei Hainan Aquatic Products Co. Ltd., Top One Intl., Xiamen Granda Import & Export Co., Ltd., Xinjiang Top Agricultural Products Co., Ltd., Xinxing Aquatic Products Processing Factory, Yancheng Hi-king Agriculture Developing Co., Ltd., Yangjiang Wanshida Seafood Co., Ltd., Yelin Enterprise Co., Ltd., Zhangzhou Xinwanya Aquatic Product, Zhanjiang East Sea Kelon Aquatic Products Co. Ltd., Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd., Zhanjiang Fuchang Aquatic Products Co., Ltd., Zhanjiang Go Harvest Aquatic Products Co., Ltd., Zhanjiang Haizhou Aquatic Product Co. Ltd., Zhanjiang Jinguo Marine Foods Co., Ltd., Zhanjiang Longwei Aquatic Products Industry Co., Ltd., Zhanjiang Universal Seafood Corp., Zhejiang Daishan Baofa Aquatic Products Co., Ltd., Zhejiang Industrial Group Co., Ltd., Zhejiang Shaoxing Green Vegetable Instant Freezing Co., Ltd., Zhejiang Zhoufu Food Co., Ltd., Zhongshan Foodstuffs & Aquatic Imp. & Exp. Group Co. Ltd. of Guangdong, Zhoushan City Shengtai Aquatic Co., Zhoushan Junwei Aquatic Product Co. Ltd., Zhoushan Lianghong Aquatic Foods Co. Ltd., Zhoushan Mingyu Aquatic Product Co. Ltd., and Zhoushan Putuo Huafa Sea Products Co., Ltd.

warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.[38] Therefore, we are assigning as the entity's current rate 112.81 percent, the only rate ever determined for the PRC-wide entity in this proceeding.

Surrogate Country

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are at a level of economic development comparable to that of the NME country and significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the *Normal Value* section below and in the Memorandum to the File through Catherine Bertrand, Program Manager, Office 9, from Kabir Archuletta, Case Analyst, Office 9, ''Sixth Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Surrogate Factor Valuations for the Preliminary Results,'' dated concurrently with this notice (''Surrogate Value Memo'').

As discussed in the *NME Country Status* section, above, the Department considers the PRC to be an NME country. The Department determined that Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine are countries comparable to the PRC in terms of economic development. *See* the Department's letter to All Interested Parties, dated June 21, 2011 (''Surrogate Country List''). Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from these countries. *See* Department *Policy Bulletin No. 04.1: Non-Market Economy Surrogate Country Selection Process,* dated March 1, 2004 (''*Policy Bulletin*'').[39]

Petitioners submit that of the countries listed on the Department's Surrogate Country List, Thailand is the closest to the PRC in its level of economic development, and therefore, the most suitable surrogate country in this review.[40] Petitioners further argue that Thailand is a producer of comparable merchandise and has publicly available pricing data and financial statements.[41]

Hilltop argues that the Department should select India as the primary surrogate country, as it has in every segment since the investigation, because: (1) The World Bank classifies both India and China as lower-middle-income countries; (2) India is a significant producer of comparable merchandise; and (3) Indian pricing information continues to be the most highly vetted, reliable and best corroborated publicly available data.[42] However, Hilltop states that should the Department select a surrogate country from its Surrogate Country List, there is data from Thailand that could serve for purposes of valuing FOPs in conjunction with Indian data.[43]

In rebuttal, Domestic Processors argue that the fact that India was selected as the primary surrogate country in prior segments does not support ignoring changes in the economic comparability of India and the PRC.[44] Domestic Processors state that while both India and the PRC are classified by the World Bank as lower-middle-income countries, the Department cannot ignore specific income data in favor of less meaningful country classifications to determine economic comparability.[45] Domestic Processors argue that Thailand, the Philippines and Indonesia are economically comparable to the PRC and significant producers of subject merchandise, whereas India is not economically comparable to the PRC.[46]

Economic Comparability

As explained in our Surrogate Country List, the Department considers Colombia, Indonesia, the Philippines, South Africa, Thailand, and Ukraine as all comparable to the PRC in terms of economic development.[47] Therefore, we consider all six countries on the Surrogate Country List as having met this prong of the surrogate country selection criteria. Furthermore, we note that in *Steel Wheels,*[48] the Department stated that ''unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data or are unsuitable for use for other reasons, we will rely on data from one of these countries.'' Because the Department finds that one of these countries from the Surrogate Country List meets the selection criteria, as explained below, the Department is not considering India as the primary surrogate country.

Significant Producers of Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the *Policy Bulletin* for guidance on defining comparable merchandise. The *Policy Bulletin* states that ''the terms 'comparable level of economic development,' 'comparable merchandise,' and 'significant producer' are not defined in the statute.''[49] The *Policy Bulletin* further states that ''in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise.''[50] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[51] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[52] ''In

[38] *See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079, 53080 (September 8, 2006).

[39] Available at *http://ia.ita.doc.gov/policy/bull04-1.html*

[40] *See* Petitioners SC Comments, at 3 and 5.

[41] *See id.,* at 4–6.

[42] *See* Hilltop SC Comments, at 1–4.

[43] *See id.,* at 4–5.

[44] *See* Domestic Processors SC Comments, at 2–3.

[45] *See id.,* at 3–4.

[46] *See id.,* at 4–5.

[47] *See* Surrogate Country List.

[48] *See Certain Steel Wheels From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination,* 76 FR 67703, 67708 (November 2, 2011) (''*Steel Wheels*'').

[49] *See Policy Bulletin.*

[50] *See id.*

[51] The *Policy Bulletin* also states that ''if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise.'' *See id.,* at note 6.

[52] *See Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 65674 (December 15, 1997) and accompanying Issues and Decision Memorandum at Comment 1 (to impose a

Continued

cases where the identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced. How the team does this depends on the subject merchandise.'' [53] In this regard, the Department recognizes that any analysis of comparable merchandise must be done on a case-by-case basis:

> In other cases, however, where there are major inputs, *i.e.,* inputs that are specialized or dedicated or used intensively, in the production of the subject merchandise, *e.g.,* processed agricultural, aquatic and mineral products, comparable merchandise should be identified narrowly, on the basis of a comparison of the major inputs, including energy, where appropriate.[54]

Further, the statute grants the Department discretion to examine various data sources for determining the best available information.[55] Moreover, while the legislative history provides that the term ''significant producer'' includes any country that is a significant ''net exporter,'' [56] it does not preclude reliance on additional or alternative metrics. In this case, we examined both production data published by the United Nations Food and Agriculture Organization, Fisheries and Aquaculture Information and Statistics Service (''UNFAO''), and export data published by the Global Trade Atlas (''GTA'') to determine which countries included on the Surrogate Country List were producers of identical and comparable merchandise. Production data for 2009, the most recently available year, indicates that all countries on the Surrogate Country List had production of identical merchandise, with the exception of Ukraine. We note that the ''Natantian Decapods, nei'' produced in Ukraine, and referenced in the production data, is a general class of shrimp that includes both subject and non-subject merchandise, and, therefore, should properly be classified comparable merchandise. However, Thailand and Indonesia, the largest and second largest producing countries, respectively, individually produced substantially more identical merchandise than all other countries combined. Further, we note that Thailand and Indonesia had substantial production of the same species of shrimp produced by both respondents in the instant review. Similarly, GTA export data indicates that all of the countries listed on the Surrogate Country List had exports of the primary HTS numbers included in the scope of the *Order* during the POR, *i.e.,* of HTS numbers 0306.13 and 1605.20. However, Thailand and Indonesia had the largest and second largest export volumes, respectively, of the aforementioned HTS numbers.

As noted above, all countries on the Surrogate Country List had production of identical or comparable merchandise and were exporters of HTS numbers included in the scope of the *Order*. Since none of the potential surrogate countries have been definitively disqualified through the above analysis, the Department looks to the availability of SV data to determine the most appropriate surrogate country.

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax- and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[57] In this case, Petitioners and Hilltop placed SV data on the record of this review for Thailand, including prices for shrimp larvae and shrimp feed, and the financial statements of three Thai processors of subject merchandise.[58] We note that because both respondents in this review have reported that they farm their own shrimp,[59] shrimp larvae and shrimp feed are the primary inputs of their production and, thus, the SVs most essential to our analysis.

In addition to the SV data placed on the record by interested parties, we conducted an extensive search for SVs from other countries included on the Surrogate Country List. We were able to locate additional pricing data for shrimp larvae and shrimp feed from Thailand, as well as from the Philippines and Indonesia. We note that only Thailand, the Philippines and Indonesia have specific HTS numbers for shrimp feed. Further, the Thai shrimp larvae values and financial statements on the record of this review and those located by the Department were of superior quality to those that we were able to locate from the Philippines and Indonesia. Specifically, the shrimp larvae values located by the Department from Indonesia and the Philippines were non-contemporaneous and the financial statements were either non-contemporaneous or the company had net losses during the POR. Further, a search for financial statements, shrimp larvae values and shrimp feed values from other countries on the surrogate country list did not produce any usable SVs. While we recognize potential issues with the three financial statements on the record from Thailand, we find the SV data from Thailand, as a whole, to be more robust than the available data from the Philippines and Indonesia. *See* Surrogate Value Memo.

Therefore, the Department finds Thailand to be a reliable source for surrogate values because Thailand is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data. Given the above facts, the Department has selected Thailand as the primary surrogate country for this review. *See* Surrogate Value Memo.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, we calculated the export price (''EP'') for sales to the United States for Regal, because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP was not otherwise warranted. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight, foreign brokerage and handling, customs duties, domestic brokerage and handling and other movement expenses incurred. For the services provided by an NME vendor or paid for using an NME currency, we based the deduction of these movement charges on surrogate values. *See* Surrogate Value Memo for details regarding the surrogate values for movement expenses. The Department has not used Regal's reported market economy international freight expenses because Regal was unable to provide evidence of the purchase price between the freight forwarder located in the PRC and the market economy carrier. It is the Department's practice to require a

requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute).

[53] *See Policy Bulletin,* at 2.

[54] *See id.,* at 3.

[55] *See* section 773(c) of the Act; *Nation Ford Chem. Co.* v. *United States,* 166 F.3d 1373, 1377 (Fed. Cir. 1990).

[56] *See* Conference Report to the 1988 Omnibus Trade & Competitiveness Act, H.R. Rep. No. 100–576, at 590 (1988).

[57] *See Policy Bulletin.*

[58] *See* Petitioners' SV Submission; Hilltop SV Submission; and Hilltop SV Rebuttal.

[59] *See* Regal's supplemental questionnaire dated September 6, 2011, at S–5 and Hilltop's Section D questionnaire response dated July 14, 2011, at 5.

respondent to establish a link between payments to the ME carrier through the ME ocean freight carrier's PRC agent.[60] Accordingly, we have applied a SV to all of Regal's ocean freight costs, which we deducted in the calculation of U.S. net price. For further details, *see* the company specific analysis memorandum, dated concurrently with the signature date of this notice.

Constructed Export Price

For Hilltop's sales, we based U.S. price on constructed export price (''CEP'') in accordance with section 772(b) of the Act, because sales were made on behalf of Hilltop by its U.S. affiliates to unaffiliated purchasers in the United States. For these sales, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement expenses, U.S. movement expenses, and appropriate selling expenses, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in Chinese renminbi, we valued these services using surrogate values. *See* Surrogate Value Memo for details regarding the surrogate values for movement expenses. For those expenses that were provided by a market-economy provider and paid for in market-economy currency, we used the reported expenses. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for Hilltop and Regal, *see* the company specific analysis memoranda, dated concurrently with the signature date of this notice.

Normal Value

Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by the respondents for the POR. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below).

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to each Thai import surrogate value a surrogate freight cost calculated from the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. *See Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). Where we could not obtain publicly available information contemporaneous to the POR with which to value FOPs, we adjusted the surrogate values, where appropriate, using the Producer Price Index (''PPI'') as published in the International Monetary Fund's *International Financial Statistics. See* Surrogate Value Memo.

The Department used Thai import statistics from GTA to value the raw material and packing material inputs that Hilltop and Regal used to produce subject merchandise during the POR, except where listed below.

Petitioners provided a SV for shrimp larvae derived from a price list for various sizes of black tiger prawn larvae published in April of 2006 by the Thailand Department of Fisheries' National Institute of Coastal Aquaculture.[61] Hilltop provide a SV for white shrimp larvae derived from an April 2008 study by the Thai Ministry of Natural Resource and Environment, Pollution Control Department, titled ''Aquaculture under the low-salted system in fresh water area.''[62] In its rebuttal submission, Hilltop objected to the use of Petitioners' SV for shrimp larvae based on evidence indicating higher production costs and larvae prices for black tiger prawns as opposed to white shrimp, the sole species produced by Hilltop.[63] To value shrimp larvae, the Department is placing on the record of this review the March 2010 publication of *Aqua Culture Asia Pacific* magazine. We find this to be the best source on the record because it is publicly available, contemporaneous with the POR and specific to the input, which in this case is white shrimp larvae, the sole species produced by Hilltop.[64] Because Regal operates its own hatchery, we are not using a surrogate to value Regal's self-produced shrimp larvae.[65] Rather, we are valuing Regal's inputs at the hatchery stage. For further discussion of this issue, *see* Surrogate Value Memo.

Petitioners placed GTA-Thailand import data on the record of this review for the purposes of valuing shrimp feed.[66] Hilltop provided a SV for shrimp feed derived from a 2008 study titled ''Analysis of Production Costs and Logistic Costs of White Shrimp Farming in Thailand.''[67] In its rebuttal submission, Hilltop objected to the use of Petitioner's source for shrimp feed, arguing that the high average unit values (''AUVs'') reflected in the import data would produce an unreasonable result.[68]

In testing the reliability of SVs alleged to be aberrational, or in this case, SVs which produce an unreasonable result, the Department applies certain criteria in making its decision. First, the Department's current practice is to compare the surrogate values in question to the GTA AUVs calculated for the same period using data from the other potential surrogate countries on the Surrogate Country List, to the extent that such data are available.[69] In a similar vein, we note that the Department has also examined data

[60] *See Wire Decking From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 75 FR 32905 (June 10, 2010) and accompanying Issues and Decision Memorandum at Comment 6.

[61] *See* Petitioners' SV Submission at Exhibit 1.

[62] *See* Hilltop SV Submission at Exhibit 16.

[63] *See* Hilltop SuppACD at 37, and Hilltop Rebuttal Submission at 2 and Exhibits 1A and 1B.

[64] *See id.*

[65] *See* Regal's supplemental questionnaire dated September 6, 2011, at *S–14.*

[66] *See* Petitioners' SV Submission at Exhibits 1 and 12–15.

[67] *See* Hilltop SV Submission at Exhibit 1 and Exhibit 4.

[68] *See* Hilltop SV Rebuttal Submission at 2 and Exhibit 2.

[69] *See, e.g., Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Administrative Review,* 75 FR 36630 (June 28, 2010) and accompanying Issues and Decision Memorandum at Comment 4, and *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006) and accompanying Issues and Decision Memorandum at Comment 5.

from the same HTS category for the surrogate country over multiple years to determine if the current data appear aberrational with respect to historical values.[70]

The Department has analyzed POR and historical shrimp feed import data for Thailand, the Philippines, and Indonesia, for the periods corresponding to the 4th, 5th and 6th administrative reviews of this case. *See* Surrogate Value Memo. We note that for the current POR, the AUV of Thai shrimp feed imports was $14.54/kg, while the AUVs of the Indonesian and Philippine shrimp feed imports were $0.92/kg and $0.50/kg, respectively. *See id.* Further, the AUV of Thai shrimp feed imports over the periods examined show considerably more variance, exhibiting a standard deviation of 11.43, than the other countries, with standard deviations ranging from 0.188 to 0.195. *See id.* While the Department is unable to determine the root cause of this variance, we do find that it may indicate aberrational data. Therefore, as the Thai import data for shrimp feed appears to be aberrational, based on a comparison against imports made during the POR by economically comparable countries and historical data, the Department has looked to other potential sources by which to value shrimp feed for these preliminary results.

With respect to Hilltop's SV source for shrimp feed, the only other source placed on the record of this review by interested parties, we note that it reports the cost of shrimp feed over the entire farming phase of shrimp production, *i.e.,* the cost of shrimp feed required to produce one kg of finished product. However, Hilltop's source did not provide the quantity of shrimp feed used to produce one kg of finished product. Therefore, we are unable to calculate a per kg cost of shrimp feed based on this source, which is necessary to value respondents' consumption. Therefore, we preliminarily determine not use Hilltop's source as it does not allow us to value the respondents' consumption.

It is the Department's preference to value all FOPs in a single surrogate country, when possible, consistent with section 351.408(c)(2) of the Department's regulations, which states that ''the Secretary normally will value all factors in a single surrogate country.'' However, where no suitable SV is available from the primary surrogate country, the Department has valued FOPs in other countries that have been found to be significant producers of comparable merchandise and economically comparable to the NME country in question.[71] As such, to value shrimp feed, the Department is placing shrimp feed import data for Indonesia, the second largest producer and exporter of shrimp, on the record of this review because it does not appear to be aberrational, it is contemporaneous with the POR, it is a broad-market average, it is specific to the input and it is tax and duty exclusive. For further discussion of this issue, *see* Surrogate Value Memo.

We valued electricity using the 2010 prices published by the Electricity Generating Authority of Thailand, which contains pricing data for electricity sales to the Metropolitan Electricity Authority of Thailand, the Provincial Electricity Authority of Thailand, direct customers, minor customers and standby power supply rates. These electricity rates represent publicly available, broad-market averages. *See* Surrogate Value Memo.

On June 21, 2011, the Department announced its new methodology to value the cost of labor in NME countries.[72] In *Labor Methodologies,* the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (''ILO'') Yearbook of Labor Statistics (''Yearbook'').

As announced above, the Department's methodology is to use data reported under Chapter 6A by the ILO. For this review the Department found that Thailand last reported data in 2000 for Chapter 6A under Sub-Classification 15 of the ISIC–Revision 3, which we have adjusted for the POR using the relevant consumer price index as published by the International Monetary Fund's *International Financial Statistics* under series ''64..ZF Consumer Prices.'' Accordingly, we are relying on Chapter 6A of the Yearbook, and have calculated the labor input using Sub-Classification 15 ''Manufacture of Food Products and Beverages'' labor data reported by Thailand to the ILO, in accordance with section 773(c)(4) of the Act. A more detailed description of the wage rate calculation methodology is provided in the Surrogate Value Memo.

As stated above, the Department used Thailand ILO data reported under Chapter 6A of the ILO Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Pursuant to *Labor Methodologies,* the Department's practice is to consider whether financial ratios reflect labor expenses that are included in other elements of the respondent's factors of production (*e.g.,* general and administrative expenses). However, the financial statements used to calculate financial ratios in this review were insufficiently detailed to permit the Department to isolate whether any labor expenses were included in other components of NV. Therefore, in this review, the Department made no adjustment to these financial statements. *See* Surrogate Value Memo.

To value the respondents' international ocean freight from the PRC to the United States on NME carriers in instances where the exporter was responsible for these charges, the Department is using data obtained from the Descartes Carrier Rate Retrieval Database (''Descartes''), which can be accessed via *http://descartes.com/.* The Descartes rates are contemporaneous with the POR. *See* Surrogate Value Memo.

To value water, the Department used data published by the Metropolitan Waterworks Authority of Thailand (*http://www.mwa.co.th*) specific to prices charged to Commerce, Government Agency, State Enterprise and Industry. Although this source states that the published prices are effective as of December 1999 there is no information to indicate that these prices are not still in effect. *See* Surrogate Value Memo.

We valued diesel using data from the International Energy Agency publication *Energy Prices & Taxes, Quarterly Statistics* (Second Quarter 2011), which uses 2010 data that is tax and duty exclusive. *See* Surrogate Value Memo.

[70] *See, e.g., Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 57329 (October 2, 2008) and accompanying Issues and Decision Memorandum at Comment 10; and *Saccharin from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 7515 (February 13, 2006) and accompanying Issues and Decision Memorandum at Comment 5.

[71] *See Tapered Roller Bearings* and accompanying Issues and Decision Memorandum at Comment 3; *see also Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 3.

[72] *See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production:* Labor, 76 FR 36092 (June 21, 2011) (''*Labor Methodologies*''). This notice followed the Court of Appeals for the Federal Circuit in *Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372 (CAFC 2010), found that the ''{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (*i.e.,* 19 U.S.C. 1677b(c))}.''

To value truck freight expenses, we used the World Bank's *Doing Business 2011: Thailand* located at *http://www.doingbusiness.org/,* which we find to be contemporaneous, specific to the cost of shipping goods in Thailand, and representative of a broad-market average. This report gathers information concerning the cost to transport a 20-foot container of dry goods weighing 10 tons from the largest city to the nearest seaport.

We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Thailand published in the World Bank's *Doing Business 2011: Thailand.* The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Thailand.

To value factory overhead, sales, general and administrative expenses (''S,G&A''), and profit, Petitioners placed on the record of this review the calendar year 2010 financial statements of Seafresh Industry Public Co., Ltd. (''Seafresh'').[73] Hilltop placed on the record of this review the calendar year 2010 financial statements of Thai Union Frozen Products Public Co., Ltd. (''Thai Union''), and Kiang Huat Sea Gull Trading Frozen Food Public Co., Ltd. (''Kiang Huat'').[74] The Department has reviewed the financial statements provided by the parties and determined that Thai Union [75] and Seafresh [76] received a countervailable subsidy during the POR, from a program previously investigated by the Department.[77]

Section 773(c)(1) of the Act directs Commerce to base the valuation of the factors of production on ''the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate * * *'' Moreover, in valuing such factors, Congress has directed Commerce to ''avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices.'' [78] Therefore, where the Department has a reason to believe or suspect that the company may have received subsidies, the Department may find that the financial ratios derived from that company's financial statements are less representative of the financial experience of that company or the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization.[79] Here, the Department finds that the statements for companies that received countervailable subsidies previously investigated by the Department do not constitute the best available information to value the surrogate financial ratios.[80] Therefore, we preliminarily determine that the Thai Union and Seafresh statements do not constitute the best available information on the record.

In determining the suitability of surrogate values, the Department carefully considers the available evidence with respect to the particular facts of each case and evaluates the suitability of each source on a case-by-case basis.[81] Accordingly, when examining the merits of financial statements on the record, the Department does not have an established hierarchy that automatically gives certain characteristics more weight than others. Rather, the Department must weigh available information with respect to each situation and make a product and case-specific decision as to what constitutes the ''best'' available information. Furthermore, the CIT has recognized the Department's discretion in selecting the best surrogate values on the record.[82]

With respect to the remaining Kiang Huat statement, we recognize that the company, which only processes shrimp, does not perfectly match the production experience of respondents, which farm and process shrimp.[83] Although the Department's standard criteria for selecting financial statements in calculating surrogate financial ratios also includes examining the level of integration of the surrogate company in order to approximate the overhead costs, S,G&A, and profit levels of the respondent,[84] the CIT has held that the Department is ''neither required to duplicate the exact production experience of the integrated manufacturers, nor undergo an item by item analysis in calculating factory overhead.'' [85] Moreover, it has been our experience that it is rarely possible to achieve exact symmetry between the NME producer and the surrogate producer.[86] Therefore, in this instance, we find that the Department's legislative obligation to avoid using values potentially distorted by subsidies outweighs the difference in levels of integration between the surrogate company and the respondents. Accordingly, for these preliminary results we have calculated the surrogate financial ratios based on the financial statement of Kiang Huat, which we find to be the best available information on the record because it does not contain evidence that the company received a countervailable subsidy during the POR from a program previously investigated by the Department.

Additionally, we note that the Kiang Huat financial statement does not identify energy expenses. When the Department is unable to segregate and, therefore, exclude energy costs from the calculation of the surrogate financial ratio, it is the Department's practice to disregard the respondents' energy inputs in the calculation of normal value in order to avoid double-counting energy costs which have necessarily

[73] *See* Petitioners' SV Submission at Attachment 5.

[74] *See* Hilltop SV Submission at Exhibits 17A and 17B.

[75] *See* Hilltop SV Submission at Exhibit 17A, 49–50 (Board of Investment program and income tax exemption that is contingent upon export).

[76] *See* Petitioners' SV Submission at Attachment 5, 26–27 (Board of Investment program that is contingent upon export).

[77] *See Final Negative Countervailing Duty Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Thailand,* 70 FR 13462 (March 21, 2005); *see also Ball Bearings and Parts Thereof From Thailand: Final Results of Countervailing Duty Administrative Review,* 61 FR 728 (January 6, 1997).

[78] *See* Omnibus Trade and Competitiveness Act of 1988, H.R. Rep. No. 576, 100th Cong., 2nd Sess., at 590–91 (1988).

[79] *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results and Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 19174 (April 17, 2007), and accompanying Issues and Decision Memorandum at Comment 1.

[80] *See id.*

[81] *See Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review,* 71 FR 40477 (July 17, 2006), and accompanying Issues and Decision Memorandum at Comment 1; *see also Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review,* 67 FR 19546 (April 22, 2002) and accompanying Issues and Decision Memorandum at Comment 2.

[82] The CIT has upheld its previous determinations that ''when Commerce is faced with the decision to choose between two reasonable alternatives and one alternative is favored over the other in their eyes, then they have the discretion to choose accordingly.'' *See FMC Corp.* v. *United States,* 27 CIT 240, 241 (CIT 2003), (citing *Technoimportexport, UCF America Inc.* v. *United States,* 783 F. Supp. 1401, 1406 (CIT 1992)), affirmed *FMC Corp.* v. *United States,* 87 Fed. Appx. 753 (Fed. Cir. 2004).

[83] *See* Hilltop SV Submission at Exhibit 17B, 10 (''The principal business of the Company is frozen seafood manufacturing'').

[84] *See Drill Pipe from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 76 FR 1966 (January 11, 2011), and accompanying Issues and Decision Memorandum at Comment 5.

[85] *See Rhodia, Inc.* v. *United States,* 240 F. Supp. 2d 1247 (CIT 2002).

[86] *See Bulk Aspirin from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 68 FR 48337 (August 13, 2003), and accompanying Issues and Decision Memorandum at Comment 2.

been captured in the surrogate financial ratios.[87] *See* Surrogate Value Memo.

Currency

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in sections 782(i)(2)–(3) of the Act, we intend to verify the information upon which we will rely in determining our final results of review with respect to Hilltop.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period February 1, 2010, through January 31, 2011:

Exporter	Margin (percent)
Hilltop International[88]	0.00
Zhanjiang Regal Integrated Marine Resources Co., Ltd	0.00
PRC–Wide Entity[89]	112.81

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1).[90] Additionally, for each piece of factual information submitted with surrogate value rebuttal comments, the interested party must provide a written explanation of what information is already on the record of the ongoing proceeding, which the factual information is rebutting, clarifying, or correcting.

Because, as noted above, the Department intends to verify the information upon which we will rely in making our final determination, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. *See* 19 CFR 351.309(c) and (d).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

Extension of the Time Limits for the Final Results

Section 751(a)(3)(A) of the Act requires that the Department issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

In this proceeding, the Department requires additional time to complete the final results of this administrative review to conduct the verification of Hilltop, generate the reports of the verification findings, and properly consider the issues raised in case briefs from interested parties. Thus, it is not practicable to complete this administrative review within the original time limit. Consequently, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later than 180 days after the publication date of these preliminary results.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), for the mandatory respondent, we calculated an exporter/importer (or customer)-specific assessment rate for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). *See* 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

For the company for which this review has been preliminarily

[87] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 74 FR 16838, 16839 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2.

[88] This rate shall also apply to the single entity consisting of Hilltop International, Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, and Ever Hope International Co., Ltd.

[89] The PRC-wide entity includes the 81 companies under review that are referenced above in footnote 33, as well as any company that does not have a separate rate.

[90] *See Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

rescinded, Shantou Yuexing Enterprise Company, the Department intends to assess antidumping duties 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), if the review is rescinded for this company in the final results.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Regal, the cash deposit rate will be that established in the final results of this review, except, if the rate is zero or *de minimis,* no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 112.81 percent; and (4) for all non-PRC exporters of subject merchandise, which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this 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 double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: February 24, 2012.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. 2012–5028 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–941]

Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; (202) 482–7906.

Background

On October 31, 2011, the Department of Commerce (''Department'') published a notice of initiation of an administrative review of the antidumping duty order on certain kitchen appliance shelving and racks from the People's Republic of China (''PRC'') covering the period September 1, 2010, through August 31, 2011. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 76 FR 67133 (October 31, 2011).

On January 10, 2012, SSW Holding Company, Inc. and Nashville Wire Products, Inc, (''Petitioners'') withdrew their request for an administrative review of Hangzhou Dunli Import & Export Co.; Ltd. (''Hangzhou Dunli''). Additionally, on January 30, 2012, Petitioners withdrew their request for a review of Guangdong Wireking Co. Ltd. (''Wireking''). Petitioners were the only party to request a review of these companies.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Petitioners' request was submitted within the 90 day period and, thus, is timely. Because Petitioners' withdrawal of requests for review is timely and because no other party requested a review of the aforementioned companies, in accordance with 19 CFR 351.213(d)(1), we are partially rescinding this review with respect to Hangzhou Dunli and Wireking.[1]

Assessment Rates

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Both Hangzhou Dunli and Wireking have a separate rate from a prior segment of this proceeding; therefore, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department intends to issue 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(0(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 Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, 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

[1] We note that there are additional companies for which all review requests were withdrawn within the 90 day period. See Letter to the Department from Petitioners, Re: Withdrawal of Requests for Second Administrative Review of the Antidumping Duty Order—Kitchen Appliance Shelving and Racks from the People's Republic of China, dated January 10, 2012; and Letter to the Department from Petitioners, Re: Withdrawal of Requests for Second Administrative Review of the Antidumping Duty Order—Kitchen Appliance Shelving and Racks from the People's Republic of China, dated January 30, 2012. These additional companies for which all review requests were withdrawn do not have a separate rate from a prior segment of this proceeding. We intend to address the disposition of these companies in the preliminary results of this review.

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 section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 17, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–4872 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–974]

Steel Wheels From the People's Republic of China: Notice of Preliminary Affirmative Determination of Critical Circumstances

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has preliminarily determined that critical circumstances exist with respect to imports of steel wheels from the People's Republic of China (PRC).

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–2209 and 202–482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On March 30, 2011, the Department received a countervailing duty (CVD) petition concerning imports of steel wheels from the PRC filed in proper form by Accuride Corporation (Accuride) and Hayes Lemmerz International, Inc. (collectively, petitioners).[1] This investigation was initiated on April 19, 2011.[2] The affirmative preliminary determination was published on September 6, 2011.[3]

On September 1, 2011, petitioners alleged that critical circumstances exist with respect to imports of steel wheels from the PRC and submitted U.S. Census Data in support of their allegation at Exhibit I.[4] On September 9, 2011, the Department requested from the three mandatory respondents—the Jingu Companies,[5] the Xingmin Companies,[6] and the Centurion Xingmin Companies [7]—monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.

On September 21, 2011, the Xingmin Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.[8] At verification, the Xingmin Companies provided some minor corrections to these data.[9] On September 25, 2011, the Jingu Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.[10] At verification, the Jingu Companies provided some minor corrections to these data.[11] On September 26, 2011, the Centurion Companies submitted to the Department their monthly shipment data of subject merchandise to the United States for the period October 2010 through June 2011.[12]

Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (POI), is calendar year 2010.

Scope of Investigation

The products covered by this investigation are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30. Imports of the subject merchandise may also enter under the following categories of the HTSUS: 8406.90.4580, 8406.90.7500, 8420.99.9000, 8422.90.1100, 8422.90.2100, 8422.90.9120, 8422.90.9130, 8422.90.9160, 8422.90.9195, 8431.10.0010, 8431.10.0090, 8431.20.0000, 8431.31.0020, 8431.31.0040, 8431.31.0060, 8431.39.0010, 8431.39.0050, 8431.39.0070, 8431.39.0080, 8431.43.8060, 8431.49.1010, 8431.49.1060, 8431.49.1090, 8431.49.9030, 8431.49.9040, 8431.49.9085, 8432.90.0005, 8432.90.0015, 8432.90.0030, 8432.90.0080, 8433.90.1000, 8433.90.5020, 8433.90.5040, 8436.99.0020, 8436.99.0090, 8479.90.9440, 8479.90.9450, 8479.90.9496, 8487.90.0080, 8607.19.1200, 8607.19.1500, 8708.70.1500, 8708.70.3500, 8708.70.4560, 8708.70.6060, 8709.90.0000, 8710.00.0090,

[1] *See* Petition for the Imposition of Countervailing Duties (Petition). A public version of the Petition and all other public documents and public versions of business proprietary documents for this investigation are available on the public file in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

[2] *See Certain Steel Wheels From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 76 FR 23302 (April 26, 2011) (*Initiation Notice*), and accompanying Initiation Checklist.

[3] *See Certain Steel Wheels From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determination,* 76 FR 55012 (September 6, 2011) (*Preliminary Determination*).

[4] *See* Petitioners' Critical Circumstances Allegation (September 1, 2011).

[5] The Jingu Companies are Zhejiang Jingu Company Limited (Zhejiang Jingu), Chengdu Jingu Wheel Co., Ltd. (Chengdu Jingu), Shanghai Yata Industrial Co. Ltd. (Shanghai Yata), and Zhejiang Wheel World Industrial Co., Ltd. (Wheel World).

[6] The Xingmin Companies are Shandong Xingmin Wheel Co. Ltd. (Xingmin) and Sino-tex (Longkou) Wheel Manufacturers, Inc. (Sino-tex).

[7] The Centurion Companies are Jining Centurion Wheels Manufacturing Co. Ltd. (Jining Centurion) and Jining CII Wheel Manufacture Co., Ltd. (Jining CII).

[8] *See* the Xingmin Companies' third supplemental questionnaire response titled ''Steel Wheels from China: Third Supplemental Questionnaire Response'' (September 21, 2010) at Exhibit I.

[9] *See* the Department's January 6, 2012, verification report titled ''Verification Report of Xingmin Wheel Co. Ltd'' at 2 (filed on IA ACCESS on January 10, 2012).

[10] *See* the Jingu Companies' third supplemental questionnaire response titled ''CVD Investigation of Steel Wheels from China: Critical Circumstances Shipment Data'' (filed on IA ACCESS on September 25, 2011, and dated September 26, 2011) at Exhibit I.

[11] *See* the Department's January 31, 2012, verification report titled ''Verification Report Regarding Information Submitted by Zhejiang Jingu Company Limited'' at 2 and 5–6.

[12] *See* the Centurion Companies' third supplemental questionnaire response titled ''CVD Investigation of Steel Wheels from China: Critical Circumstances Shipment Data'' (dated September 26, 2010) at Exhibit I.

8714.19.0030, 8714.19.0060, 8716.90.1000, 8716.90.5030, 8716.90.5060, 8803.20.0015, 8803.20.0030, and 8803.20.0060.

These HTSUS numbers are provided for convenience and customs purposes only; the written description of the scope is dispositive.

Comments of the Parties

In their critical circumstances allegation, Petitioners also allege that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (Subsidies Agreement). Petitioners cite to the *Preliminary Determination,* in which the Department preliminarily determined that the Jingu Companies have received several subsidies which are contingent on export performance. *See* Petitioners' Critical Circumstances Allegation (September 1, 2011) at 2.

Petitioners also claim in their critical circumstances allegation that there have been massive imports of steel wheels in the three months following the filing of the petition on March 30, 2011. Petitioners provided Census Bureau Data, which they contend demonstrate that imports of subject merchandise increased by more than 15 percent, which is required to be considered ''massive'' under section 351.206(h)(2) of the Department's regulations. Petitioners submit that, by volume, imports increased approximately 48 percent from 510,174 wheels in the first quarter of 2011, to 753,604 wheels in the second quarter of 2010. *Id.* at 3 and Exhibit 1. Petitioners also contend that, by value, imports increased approximately 40 percent, from $17,787,704 in the first quarter of 2011, to $24,893,481 in the second quarter of 2010. *Id.*

Analysis

Section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the Subsidies Agreement, and (B) there have been massive imports of the subject merchandise over a relatively short period.

When determining whether an alleged countervailable subsidy is inconsistent with the Subsidies Agreement, the Department limits its findings to those subsidies contingent on export performance or use of domestic over imported goods (*i.e.,* those prohibited under Article 3 of the Subsidies Agreement).[13] In the *Preliminary Determination,* the Department found that, during the POI, the Jingu Companies received countervailable benefits under five programs that are contingent upon export performance. Therefore, we preliminarily determine that there is a reasonable basis to believe or suspect that these five programs are inconsistent with the Subsidies Agreement.

In the *Preliminary Determination,* the Department found that, during the POI, the Centurion Companies and Xingmin Companies did not receive countervailable benefits under any programs that are contingent upon export performance. Therefore, we preliminarily determine that there is not a reasonable basis to believe or suspect that the Centurion Companies and the Xingmin Companies received benefits inconsistent with the Subsidies Agreement.

In determining whether imports of the subject merchandise have been ''massive,'' section 351.206(h)(1) of the Department's regulations provides that the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, the Department will not consider imports to be massive unless imports during the ''relatively short period'' (comparison period) have increased by at least 15 percent compared to imports during an ''immediately preceding period of comparable duration'' (base period). *See* 19 CFR 351.206(h)(2).

Section 351.206(i) of the Department's regulations defines ''relatively short period'' as normally being the period beginning on the date the proceeding commences (*i.e.,* the date the petition is filed) and ending at least three months later. For consideration of this allegation, we have used a three-month base period (*i.e.,* January 2011 through March 2011) and a three-month comparison period (*i.e.,* April 2011 through June 2011).

In determining whether there were massive imports from the Jingu Companies, we analyzed the Jingu Companies' monthly shipment data for the period January 2011 through June 2011. These data indicate that there was not a massive increase in shipments of subject merchandise to the United States by the Jingu Companies during the three-month period immediately following the filing of the petition on March 30, 2011. Specifically, shipments of subject merchandise to the United States from the Jingu Companies decreased, both in terms of volume and value. *See* the Memorandum to the File from Robert Copyak, Senior Financial Analyst, AD/CVD Operations Office 3, titled ''Critical Circumstances Shipment Data Analysis,'' (Critical Circumstances Memorandum) (February, 2011) at Attachment I.

With regard to whether imports of subject merchandise by the ''all other'' exporters of steel wheels in the PRC were massive, we preliminarily determine that because there is evidence of the existence of countervailable subsidies that are inconsistent with the Subsidies Agreement, an analysis is warranted as to whether there was a massive increase in shipment by the ''all other'' companies, in accordance with section 351.206(h)(1) of the Department's regulations. Therefore, we analyzed, in accordance with 19 CFR 351.206(i), monthly shipment data for the period January 2011 through June 2011, using shipment data from the International Trade Commission's (ITC's) Dataweb and adjusting it to remove the shipments by the respondents participating in the investigation.[14] For this analysis, we used only the data pertaining to the HTSUS numbers 8708.70.05.00, 8708.70.25.00, 8708.70.45.30, and 8708.70.60.30, which are the HTSUS categories under which a majority of the subject merchandise entered the United States. We did not use the HTSUS numbers described in the scope as categories that imports of subject merchandise ''may also enter under'' because they are basket categories. The data provided by the respondents and the data for shipments by other exporters from the ITC's Dataweb indicate there was a massive increase in shipments, as defined by 19 CFR 351.206(h). *See* Critical Circumstances Memorandum at Attachment II.

Conclusion

We preliminarily determine that critical circumstances do not exist for

[13] *See, e.g., Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 73 FR 21588, 21589–90 (April 22, 2008), unchanged in *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Carbon and Certain Alloy Steel Wire Rod From Germany,* 67 FR 55808, 55809 (August 30, 2002).

[14] *See, e.g., Certain Oil Country Tubular Goods From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination,* 74 FR 47210, 47212 (September 15, 2009), unchanged in *Certain Oil Country Tubular Goods From the People's Republic of China: Final Affirmative Countervailing Duty Determination: Final Negative Critical Circumstances Determination,* 74 FR 64045 (December 7, 2009).

imports of steel wheels from the three mandatory respondents the Jingu Companies, Centurion Companies, and Xingmin Companies. Although the *Preliminary Determination* indicates that the Jingu Companies benefited from programs that are inconsistent with the Subsidies Agreement, the Jingu Companies' shipment data does not indicate a massive increase in shipments of subject merchandise to the United States. With regard to Centurion and Xingmin, there is no evidence on the record indicating that either company benefited from programs that are inconsistent with the Subsidies Agreement and therefore we preliminarily determine that critical circumstances do not exist with regard to shipments from these two mandatory respondents.

We also preliminary determine, based on our analysis of the shipment data provided by the three mandatory respondents and ITC Dataweb data, that critical circumstances exist for imports from ''all other'' exporters of steel from the PRC. We will make a final determination concerning critical circumstances for steel wheels from the PRC when we make our final countervailable subsidy determination in this investigation.

Suspension of Liquidation

In accordance with section 703(e)(2)(A) of the Act, we are directing U.S. Customs and Border Protection to suspend, with regard to the ''all other'' companies only, liquidation of any unliquidated entries of subject merchandise from the PRC entered, or withdrawn from warehouse for consumption, on or after June 8, 2011, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: February 27, 2012.

Ronald K. Lorentzen

Acting Assistant Secretary for Import Administration.

[FR Doc. 2012–5186 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB055

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a meeting of the North Pacific Fishery Management Council (Council) and Alaska Board of Fisheries (AK BOF) Joint Protocol Committee.

SUMMARY: The North Pacific Fishery Management Council Joint Protocol Committee of the AK BOF and Council will meet in March in Anchorage, AK.

DATES: The meeting will be held on March 19, 2012, from 10 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Hilton Hotel, Aleutian Room, 500 W. Third Avenue, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: AK BOF Staff; telephone: (907) 465–4110 or Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Committee will review the following: Status of Tanner Rebuilding, review pending actions; Status of Gulf of Alaska (GOA) Halibut Bycatch, review pending actions; Status of Salmon Chum Bycatch, review of actions on Bering Sea (BS) Chinook, review of actions on GOA Chinook, review of pending actions on BS chum salmon bycatch; Status of GOA Pacific cod (discussion papers): reverse parallel jig fishery, revise ''A'' season opening date in GOA, limiting other gear on board while jig fishing; Close waters to bottom gear in Prince William Sound; Aleutian Islands golden king crab total allowable catch (TAC); remove minimum TAC in Bristol Bay red king crab fishery; statewide scallops. Determination of next committee meeting and/or full Joint Board meeting; miscellaneous business.

The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/.*

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: February 28, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–5118 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN0648–XB056

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Scientific and Statistical Committee (SSC) and the Tilefish Monitoring Committee of the Mid-Atlantic Fishery Management Council (Council) will hold meetings.

DATES: The SSC will meet Wednesday, March 21, 2012 from 10 a.m. until 5 p.m. and Thursday, March 22, 2012 from 8 a.m. until 4 p.m. The Tilefish Monitoring Committee will meet Wednesday, March 21, 2012 from 3 p.m. until 5 p.m.

ADDRESSES: The meetings will be held at the Pier V Hotel, 711 Eastern Avenue, Baltimore, MD 21202; telephone: (410) 539–2000.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The primary purpose of the SSC meeting includes: 2012–14 ABC

recommendations for tilefish; development of criteria for prioritization of the MAFMC five-year research plan; discussion of the peer review of the Management Strategy Evaluation Study of the ABC Control Rules; development of criteria for establishing multi-year ABC recommendations; and development of technical advice for MAFMC's Ecosystem Based Fishery Management Guidance Document. The purpose of the Tilefish Monitoring Committee is to recommend management measures designed to achieve recommended catch limits.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: February 28, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–5119 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA626

Marine Mammals; File No. 16160

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that The Whale Museum (Responsible Party: Jenny Atkinson), P.O. Box 945, Friday Harbor, WA 98250 has requested a change in Principal Investigator to their pending permit application.

DATES: Written, telefaxed, or email comments must be received on or before April 2, 2012.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16160 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426.

Written comments on these applications should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Joselyd Garcia-Reyes and Kristy Beard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

On November 3, 2011, a notice was published in the **Federal Register** (76 FR 68161) that a request for a permit to conduct research on marine mammals had been submitted by the above-named applicant. The Whale Museum proposes to monitor and record vessel activities around marine mammal species routinely encountered by commercial and recreational vessels in the inland waters of Washington State. This research would contribute to a long-term data set (Orca Master) that has provided critical information on characterizing annual vessel trends around Southern Resident killer whales and an evaluation of the effectiveness of federal, state and local marine wildlife guidelines and regulations through the Soundwatch program. Research methods would include close vessel approach for photo-identification, behavioral observation, and monitoring. The main focus species are killer whales (*Orcinus orca*) from the Southern Resident stock. Additionally, Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), eastern gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), non-ESA listed killer whale, and minke whale (*Balaenoptera acutorostrata*) may be harassed.

Under the pending permit application, The Whale Museum is requesting a change in Principal Investigator (PI) due to personnel changes within their organization. They request to have Eric Eisenhardt be designated as the new PI. No other changes to the permit application are requested.

Dated: February 27, 2012.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–5175 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA914

Marine Mammals; File No. 16998

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; denial of permit.

SUMMARY: Notice is hereby given that an application for a scientific research permit (File No. 16998) submitted by Mr. Gregory Walker, University of Alaska Fairbanks, Fairbanks, AK, has been denied.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705,

Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Laura Morse, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On January 4, 2012, a notice was published in the **Federal Register** (77 FR 268) that an application had been filed by the above named applicant for a permit to harass 13,000 Steller sea lions (*Eumetopias jubatus*), 200 harbor seals (*Phoca vitulina*), 10 killer whales (*Orcinus orca*), 10 humpback whales (*Megaptera novaeangliae*), and 10 northern fur seals (*Callorhinus ursinus*) over the course of a one-year permit. The objective was to conduct low-altitude (75 to 120 meters) aerial surveys of rookeries and haul outs using ship-based unmanned aircraft to demonstrate novel methods for imaging Steller sea lion terrestrial habitat in the Aleutian Islands with the accuracy and fidelity necessary for population surveys and at a cost low enough to allow frequent monitoring.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination was made that the activities proposed were consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement (PEIS) for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permit would not have a significant adverse impact on the human environment. Comments received on the application after publication of the notice of receipt suggested that an environmental assessment (EA) or other supplemental analysis was warranted due to the lack of information in the PEIS regarding potential effects of such low-altitude surveys. The regulations governing the taking and importing of marine mammals (50 CFR part 216) stipulate that, under these circumstances, the permit be denied unless an EA is prepared with a finding of no significant impact.

The requested permit has been denied subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216), because there is not time to prepare an EA and make a finding of no significant impact before the proposed field season. The application may be re-submitted with information necessary to prepare an EA and would be processed as a new application, with opportunity for public review and comment.

Dated: February 27, 2012.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–5184 Filed 3–1–12; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 4/2/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 6/24/2011 (76 FR 37069–37070) and 1/6/2012 (77 FR 780), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

Paper, Xerographic Copier and Printer Paper, Neon Colors

NSN: 7530–01–398–2680—Paper, Xerographic, 8½″ x 11″, Neon Pink.
NSN: 7530–01–398–2681—Paper, Xerographic, 8½″ x 11″, Neon Blue.
NSN: 7530–01–398–2682—Paper, Xerographic, 8½″ x 11″, Neon Green.
NPA: Louisiana Association for the Blind, Shreveport, LA.
Contracting Activity: General Service Administration, New York, NY.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 3990–00–NSH–0078—Pallet, Treated Wood, 70″ x 42″.
NPA: Willamette Valley Rehabilitation Center, Inc., Lebanon, OR.
Contracting Activity: Department of Justice, Federal Prison System, Washington, DC.
Coverage: C-List for 100% of the requirements of UNICOR—Sheridan, OR, as aggregated by Federal Prison Industries.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–5105 Filed 3–1–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities and delete products previously furnished by such agencies.

Comments Must Be Received On or Before: 4/2/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure service listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the service to the Government.

2. If approved, the action will result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

Service

Service Type/Location: Custodial Service, FEMA LA Recovery Office, Sherwood Forest Staging Area, 2695 Sherwood Forest, Baton Rouge, LA.
NPA: Louisiana Industries for the Disabled, Inc., Baton Rouge, LA.
Contracting Activity: Department of Homeland Security, Federal Emergency Management Agency, Baton, LA.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for deletion from the Procurement List.

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Meal Kits (MORC Kits)

NSN: 8970–01–E59–0239A.
NSN: 8970–01–E59–0240A.
NSN: 8970–01–E59–0241A.
NSN: 8970–01–E59–0242A.
NSN: 8970–01–E59–0243A.
NSN: 8970–01–E59–0244A.
NPA: Topeka Association for Retarded Citizens, Topeka, KS.
Contracting Activity: Dept of Defense/Off of Secretary of Def (EXC MIL DEPTS), Washington, DC.

Shaft, Propeller

NSN: 2520–01–171–4844.
NPA: VIP Services, Inc., Elkhorn, WI.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–5104 Filed 3–1–12; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before April 2, 2012.

ADDRESSES: Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses below. Please refer to OMB Control No. 3038–0009 in any correspondence.

Barry Goldmeier, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581;
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

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

The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.

Mail: David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

Hand Delivery/Courier: Same as mail above.

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

Please submit your comments using only one method and identity that it is for the renewal of 3038–0009.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION CONTACT: Barry Goldmeier, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5303; FAX: (202) 418–5527; email: *bgoldmeier@cftc.gov* and refer to OMB Control No. 3038–0009.

SUPPLEMENTARY INFORMATION:

Title: Large Trader Reports (OMB Control No. 3038–0009). This is a

[1] *See* 17 CFR 145.9.

request for extension of a currently approved information collection.

Abstract: Parts 15 through 19 and 21 of the Commission's regulations under the Commodity Exchange Act (Act) require large trader reports from clearing members, futures commission merchants, and foreign brokers and traders. These rules are designed to provide the Commission with information to effectively conduct its market surveillance program, which includes the detection and prevention of price manipulation and enforcement of speculative position limits.

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. The OMB control numbers for the referenced CFTC regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 28, 2011 (76 FR 81481).

Burden statement: The Commission estimates the burden of this collection of information as follows:

Regulations (17 CFR)	Estimated number of respondents	Total annual responses	Estimated number of hours per response	Annual burden
Parts 15 through 19 and 21	3,709	76,950	1.11	22,792

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: February 27, 2012.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2012–5163 Filed 3–1–12; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice to renew an existing collection.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before April 2, 2012.

FOR FURTHER INFORMATION OR A COPY CONTACT: Lynn A. Bulan, Office of General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581, (202) 418–5143; FAX: (202) 418–5567; email: *lbulan@cftc.gov* and refer to OMB Control No. 3038–0033.

You may submit comments, identified by 3038–0021, by any of the following methods:

- The agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

SUPPLEMENTARY INFORMATION: This is a request for extension of a currently approved information collection.

Abstract: Title: Notification of Pending Legal Proceedings Pursuant to 17 CFR 1.60, OMB Control No. 3038–0033—Extension

The rule is designed to assist the Commission in monitoring legal proceedings involving the responsibilities imposed on contract markets and their officials and futures commission merchants and their principals by the Commodity Exchange Act, or otherwise. These rules are promulgated pursuant to the Commission's rulemaking authority contained in Sections 4a(a), 4i, and 8a(5) of the Act, 7 U.S.C. 6a(1), 6i, and 12a(5).

[1] *See* 17 CFR 145.9.

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. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 2, 2008 (73 FR 57338).

Burden statement: The respondent burden for this collection is estimated to average .10 hours per response.

Respondents/Affected Entities: 108.

Estimated number of responses: 1.

Estimated total annual burden on respondents: .10 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed above. Please refer to OMB Control No. 3038–0033 in any correspondence.

Issued in Washington, DC, on February 27, 2012, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2012–5168 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the Proposed Rio Grande Floodway, San Acacia to Bosque del Apache, Socorro County, NM, Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Albuquerque District, Corps of Engineers (Corps) is preparing a draft Supplemental Environmental Impact Statement (SEIS) on the findings of an ongoing flood risk management study along the Rio Grande from San Acacia downstream to San Marcial in Socorro County, New Mexico. The purpose of the study is to reevaluate the plan of flood protection authorized by the Flood Control Act of 1948 (Pub. L. 80–858) in light of recent changes in levee design parameters and environmental resources in the study area. The tentatively proposed plan is to replace the existing embankment between the Low Flow Conveyance Channel and the Rio Grande with a structurally competent levee capable of containing high-volume, long-duration flows. This engineered levee would substantially reduce the risk of damage from floods emanating from the Rio Grande. The local cost-sharing sponsors of the proposed project are the Middle Rio Grande Conservancy District and the New Mexico Interstate Stream Commission.

FOR FURTHER INFORMATION CONTACT: Questions or comments regarding the draft SEIS can be answered by: William DeRagon, U.S. Army Corps of Engineers, 4101 Jefferson Plaza NE., Albuquerque, New Mexico 87109; telephone: (505) 342–3358; email: *william.r.deragon@usace.army.mil.*

SUPPLEMENTARY INFORMATION: Previously, an environmental impact statement and two supplements have been published regarding this project. A final environmental impact statement addressing a recommendation to construct flood and sediment control dams on the Rio Puerco and Rio Salado was filed with the Council on Environmental Quality in 1977. An SEIS evaluating the effects of the alternative to rehabilitate the existing spoil-bank levee system was filed with the Council on Environmental Quality in 1992. In May 1997, a draft SEIS evaluating the revised design of the proposed levee to withstand long-duration floods and evaluating effects to recently listed endangered species was filed with the U.S. Environmental Protection Agency; however, a final SEIS was not prepared. Currently, a new draft SEIS is being developed to evaluate effects of revised levee design and additional alternatives. The draft SEIS will be integrated with a draft General Reevaluation Report, and the integrated document is hereafter referred to as the draft GRR/SEIS–II.

Alternatives Considered: Alternatives developed and evaluated during the current effort and previous studies consist of levee reconstruction; flood and sediment control dams; local levees; intermittent levee replacement; watershed land treatment; floodproofing of buildings; levee-alignment setbacks; and no action.

Public Involvement: Coordination is ongoing with both public and private entities having jurisdiction or an interest in land and resources in the middle Rio Grande valley of New Mexico. These entities include the general public, local governments, the U.S. Bureau of Reclamation, the U.S. Fish and Wildlife Service, the New Mexico Department of Game and Fish, and the New Mexico State Historic Preservation Officer. Coordination will continue throughout the development of the draft GRR/SEIS–II.

Significant Issues To Be Analyzed: Issues to be analyzed in the development of the draft GRR/SEIS–II include the effect of alternatives on flood risk, floodplain development, water quality, ecological resources, endangered species, wildlife refuge objectives, social welfare, human safety, cultural resources, and aesthetic qualities. Development and implementation of mitigation measures will be undertaken for unavoidable effects.

Public Review: It is estimated that the draft GRR/SEIS–II will be circulated for public review in April 2012. All interested parties including Federal, state, and public entities will be invited to submit comments on the draft GRR/SEIS–II when it is circulated for review. A public meeting will be held during the public review period in Socorro, New Mexico. An announcement of the exact date and location of the public meeting will be published in the **Federal Register**, and in Socorro and Albuquerque newspapers.

Jason D. Williams,

Lieutenant Colonel, U.S. Army Corps of Engineers, District Engineer.

[FR Doc. 2012–5091 Filed 3–1–12; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Upward Bound Program; Reopening the Fiscal Year (FY) 2012 Competition for Certain Applicants To Submit Amended Applications; Catalog of Federal Domestic Assistance (CFDA) Number 84.047A

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is reopening the Upward Bound (UB) program FY 2012 competition and accepting amended applications for new awards for the UB program FY 2012 competition from a limited number of applicants that may have been affected by incorrect information provided by the Department regarding Competitive Preference Priority 1—Persistently Lowest-Achieving Schools.

DATES:

Applications Available: March 2, 2012.

Deadline for Transmittal of Applications: March 16, 2012.

FOR FURTHER INFORMATION CONTACT: Ken Waters, Upward Bound Program, U.S. Department of Education, 1990 K Street NW., Room 7000, Washington, DC 20006–8510. Telephone: (202) 502–7586, or by email: *Ken.Waters@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On December 19, 2011, we published a notice in the **Federal Register** (76 FR 78621) inviting applications for new awards for FY 2012 for the UB Program (NIA). On January 25, 2012, we published a second notice in the **Federal Register** (77 FR 3751) extending the deadline date for the transmittal of applications to February 1, 2012, and extending the deadline date for Intergovernmental Review to April 2, 2012.

Shortly before the revised application deadline date, it came to the Department's attention that some informational materials made available on a Department Web site contained an error that may have led some applicants to incorrectly respond to one of the competitive preference priorities. Following a review of the nature and extent of the error and concerns about its potential effects on applicants' scores, the Department is reopening the competition for two weeks to provide time for applicants that submitted timely applications under the February 1, 2012, deadline and that may have been affected by this error to submit amended applications.

This opportunity will be limited to a specific subset of applicants that meet certain demonstrated criteria. The Department will compare amended applications submitted in accordance with this notice with the original submissions to ensure the applicant satisfies the criteria for a resubmission. The Department will not accept any amended application that fails to meet the criteria set forth in this notice.

In the NIA, the Department announced three competitive preference priorities to which potential applicants could respond. This notice reopens the competition for applicants that addressed Competitive Preference Priority 1—Turning Around Persistently Lowest-Achieving Schools. The priority provided additional points for applicants proposing to serve persistently lowest-achieving schools. This priority was from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 15, 2010 (*75 FR 78486*), and corrected on May 12, 2011 (*76 FR 27637*) and includes a regulatory definition for the term ''persistently lowest-achieving schools.''

A frequently asked questions document (FAQ) posted on the Department's Web site provided a link to the Department's Web page for the School Improvement Grants program where applicants could go to obtain a list of persistently lowest-achieving schools. This list, however, was outdated, and the FAQ incorrectly stated that schools listed as ''Tier III'' on the list would be considered persistently lowest-achieving schools.

So that applicants that submitted an application on or before the February 1, 2012, application deadline date and addressed Competitive Preference Priority 1 are not disadvantaged by the Department's error, we are reopening the application period for this group of applicants.

To assist these applicants in correctly responding to Competitive Preference Priority 1, we are publishing a revised and up-to-date list of those schools that the Department considers persistently lowest-achieving schools for purposes of this Competitive Preference Priority. This list does not include Tier III schools, which are not persistently lowest-achieving schools. Only schools identified on this list as Tier I or Tier II schools are considered by the Department to be persistently lowest-achieving schools for the purposes of scoring responses to Competitive Preference Priority 1. This list can be found at *http://www2.ed.gov/programs/sif/index.html.*

Applicants that successfully submitted an application on or before the February 1, 2012, application deadline date and addressed Competitive Preference Priority 1 will have until March 16, 2012 to submit an amended application. However, because the Department is offering this opportunity solely to correct a specific error, we will only accept applications from applicants that meet the following criteria. An applicant must:

- Have submitted a timely application on or before the application deadline date of February 1, 2012.
- Have addressed Competitive Preference Priority 1—Turning Around Persistently Lowest-Achieving Schools in that application.
- Submit an amended application that, as compared to its original application, proposes to serve a different set of target schools or a different distribution of students within the target schools identified in its original application.

Because the Department is reopening the competition to a limited number of applicants who may have been disadvantaged by the Department's error in responding to Competitive Preference Priority 1, applicants that submit an amended application should limit their amendments to making changes that are needed as a result of adjusting the schools they are proposing to serve or the distribution of the students they are proposing to serve within their target schools. Applicants should not make changes to their applications that are not related to adjusting their target schools or their distribution of students within target schools in response to the information provided in this notice on how to correctly respond to Competitive Preference Priority 1.

In addition, we note that there is no requirement that an applicant that addressed Competitive Preference Priority 1 amend its application. If an applicant chooses not to amend its application, or does not meet the third criterion for submitting an amended application, the application it originally submitted will be reviewed and scored.

We are not reopening the application period for any other applicants. Thus, applications that were not timely submitted may not be submitted as part of this reopening. In addition, applications that were timely submitted but did not address Competitive Preference Priority 1 are not affected by this error and may not be amended.

All information in the December 19, 2011, notice, as amended by the January 25, 2012, notice, remains the same for any amendments to applications that are submitted in response to this reopening notice, except for the updates to the **DATES** section, the specific criteria provided in this notice, and the following instructions for submitting amended applications.

1. *Address to Request the Application Package:* You can obtain an application package via the Internet by downloading the package from the program Web site at: *http://www2.ed.gov/programs/trioupbound/index.html.*

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

Individuals with disabilities can obtain a copy of the original application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

2. *Content and Form of Application Submission:* Requirements concerning the content of an amended application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your amended application. You must limit the amended application narrative (Part III) to no more than 60 pages. However, any amended application addressing the competitive preference priorities may include up to four additional pages for each priority addressed (a total of 12 pages if all three priorities are addressed) in a separate section of the amended application submission to discuss how the amended application meets the competitive preference priority or priorities. These additional pages cannot be used for or transferred to the project narrative. Partial pages will count as a full page toward the page limit. For purpose of determining compliance with the page limit, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the amended application narrative, except titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An amended application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limits do not apply to Part I, the Application for Federal Assistance (SF 424); Part II, the budget information summary form (ED Form 524); the assurances and certifications; the UB Program Profile; or the one-page Project Abstract narrative. If you include any

attachments or appendices, these items will be counted as part of Part III, the amended application narrative, for purposes of the page-limit requirement. You must include your complete response to the selection criteria, which also includes the budget narrative, in Part III, the amended application narrative.

We will reject your amended application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: March 2, 2012.

Deadline for Transmittal of Amended Applications: March 16, 2012.

Amended applications for grants under this program must be submitted electronically using the Grants.gov Apply site (*Grants.gov*). For information (including dates and times) about how to submit your amended application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to the *Other Submission Requirements* section of this notice.

We do not consider an amended application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the Central Contractor Registry (CCR), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active CCR registration with current information while your amended application is under review by the Department and, if you are awarded a grant, during the project period.

5. *Other Submission Requirements:* Amended applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Amended Applications.*

Amended applications for grants under the Upward Bound Grant Competition, CFDA number 84.047A, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the original application package, complete it offline, and then upload and submit your amended application. You may not email an electronic copy of a grant application to us.

We will reject your amended application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than one week before the amended application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is one week before the amended application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the original electronic grant application for the Upward Bound Grant competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.047, not 84.047A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your amended application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the amended application deadline date. Except as otherwise noted in this section, we will not accept your amended application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the amended application deadline date. We do not consider an amended application that does not comply with the deadline requirements. When we retrieve your amended application from Grants.gov, we will notify you if we are rejecting your amended application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the amended application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the amended application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your amended application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov*.
- You will not receive additional point value because you submit your amended application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your amended application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your amended application as files in a .PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable .PDF file. If you upload a file type other than a read-only, non-modifiable .PDF or submit a password-protected file, we will not review that material.
- Your electronic amended application must comply with any page-limit requirements described in this notice.
- After you electronically submit your amended application, you will receive from *Grants.gov* an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your amended application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your amended

application and has assigned your amended application a PR/Award number (an ED-specified identifying number unique to your amended application).

• We may request that you provide us original signatures on forms at a later date.

Amended Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your amended application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your amended application on the amended application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your amended application electronically or by hand delivery. You also may mail your amended application by following the mailing instructions described elsewhere in this notice.

If you submit an amended application after 4:30:00 p.m., Washington, DC time, on the amended application deadline date, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your amended application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your amended application by 4:30:00 p.m., Washington, DC time, on the amended application deadline date. The Department will contact you after a determination is made on whether your amended application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your amended application in paper format, if you are unable to submit an amended application through the *Grants.gov* system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system;

and

• No later than one week before the amended application deadline date (seven calendar days or, if the seventh calendar day before the amended application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your amended application.

If you mail your written statement to the Department, it must be postmarked no later than one week before the revised application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the amended application deadline date.

Address and mail or fax your statement to: Ken Waters, U.S. Department of Education, 1990 K St. NW., Room 7000, Washington, DC 20006–8510. FAX: (202) 502–7857.

Your paper revised application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Amended Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your amended application to the Department. You must mail the original and two copies of your amended application, on or before the amended application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.047A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your amended application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your amended application is postmarked after the amended application deadline date, we will not consider your amended application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Amended Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper amended application to the Department by hand. You must deliver the original and two copies of your amended application by hand, on or before the amended application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.047A), 550 12th Street SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your amended application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your amended application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant amended application. If you do not receive this notification within 15 business days from the amended application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

Program Authority: 20 U.S.C. 1070a–11 and 20 U.S.C. 1070a–13.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register**

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

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: February 28, 2012.

Eduardo M. Ochoa,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2012–5165 Filed 3–1–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Advanced Scientific Computing Advisory Committee

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). 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: Tuesday, March 27, 2012; 9 a.m.–5 p.m. and Wednesday, March 28, 2012; 9 a.m.–12 p.m.

ADDRESSES: American Geophysical Union (AGU), 2000 Florida Avenue NW., Washington, DC 20009–1277.

FOR FURTHER INFORMATION CONTACT: Melea Baker, Office of Advanced Scientific Computing Research, SC–21/Germantown Building, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–1290, Telephone (301) 903–7486.

SUPPLEMENTARY INFORMATION: Purpose of the Meeting: The purpose of this meeting is to provide advice and guidance to the Department of Energy on scientific priorities within the field of advanced scientific computing research.

Tentative Agenda Topics

- View from Washington
- View from Germantown
- Update on Exascale
- ARRA projects—Magellan final report, Advanced Networking update
- Status from Computer Science COV
- Early Career technical talks
- Summary of Applied Math and Computer Science Workshops
- ASCR's new SBIR awards
- Data-intensive Science
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. A webcast of this meeting may be available. Please check the Committee's Web site below for updates and information on how to view the meeting. 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 of the items on the agenda, you should contact Melea Baker at (301) 903–7486 or by email: *Melea.Baker@science.doe.gov.* You must make your request for an oral statement at least 5 business days prior to 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 minutes of this meeting will be available for viewing on the U.S. Department of Energy's Office of Advanced Scientific Computing Web site at: *www.sc.doe.gov/ascr/ascac/.*

Issued at Washington, DC, on February 27, 2012.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2012–5147 Filed 3–1–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Solicitation of Comments on a Proposed Change to the Disclosure Limitation Policy for Information Reported on Form EIA–819 ''Monthly Oxygenate Report''

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice of solicitation of comments.

SUMMARY: The EIA is requesting comments on a proposal to change the data protection policy for information reported on fuel ethanol production capacity, (both nameplate and maximum sustainable capacity) and make this information publicly available. The data protection policy for all other information reported on Form EIA–819 ''Monthly Oxygenate Report'' will remain the same.

DATES: Comments must be filed by April 2, 2012. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to John Duff. To ensure receipt of the comments by the due date, submission by Fax (202–586–4913) or email (*john.duff@eia.gov*) is recommended. The mailing address is John Duff, EI–25, Forrestal Building, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585. Alternatively, John Duff may be contacted by telephone at 202–586–9612. The EIA–819 Forms and Instructions are available at: *http://www.eia.gov/survey/#eia-819.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to John Duff at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

The Form EIA–819, ''Monthly Oxygenate Report'' collects data on oxygenate inputs, production, and end-of-month stocks. The form is required to be completed by the operators of all facilities that produce (manufacture or distill) oxygenates (including MTBE plants, petrochemical plants, and refineries) as part of their operations located in the 50 States and the District of Columbia. EIA stated in its survey instructions that it would protect the information to the extent that it satisfied the criteria for exemption under the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Department of Energy (DOE) regulations, 10 CFR 1004.11 implementing the FOIA, and the Trade Secrets Act, 18 U.S.C. 1905. EIA now proposes to amend the instructions to state that EIA intends to treat all information reported on fuel ethanol production capacity, (both nameplate and maximum sustainable capacity) on Form EIA–819 as public information.

II. Current Actions

Beginning with the collection of July 2012 data, EIA proposes to treat all information reported on fuel ethanol production capacity, (both nameplate and maximum sustainable capacity) on Form EIA–819 as public information and release it on EIA's Web site. EIA will signify this change by amending the

instructions on Form EIA–819 to state that this information will be treated as public. The publicly available ethanol production capacity information would be identifiable by company and facility. The data protection policy for all other information reported on Form EIA–819 will remain the same and be protected to the extent that the information qualifies as confidential commercial information under the criteria for exemption in the Freedom of Information Act (FOIA), 5 U.S.C. 552; the Department of Energy (DOE) regulations, 10 CFR part 1004, which implement the FOIA; and the Trade Secrets Act, 18 U.S.C. 1905. The proposed policy change is based on EIA's mandate for carrying out a central, comprehensive, and unified energy data and information program responsive to users' needs for credible, reliable, and timely energy information that will improve and broaden understanding of energy in the United States.

EIA releases on its Web site, on an annual basis, the atmospheric crude oil distillation capacity and downstream charge capacity, by state, for each refinery in the *Refinery Capacity Report.* One important use of ethanol is for blending with gasoline. The publication of fuel ethanol plant production capacities by facility will provide comparable upstream information similar to refineries and will be useful to assess upstream gasoline market supply conditions. By providing capacity information at the facility level for ethanol production and other refined petroleum products, supply conditions within a region or state may be assessed in the event of a supply disruption.

Fuel ethanol production capacities were previously collected by EIA on Form EIA–819A ''Annual Oxygenate Capacity Report'' from January 1, 1993–1995 and released by company and facility in the *Petroleum Supply Annual* during that same time period. Form EIA–819A was discontinued in 1996. The proposal to release fuel ethanol plant production capacity collected on Form EIA–819 beginning with July, 2012, reference period is consistent with past EIA practices and will improve the utility of the data by permitting comparisons on the growth in capacity at the state level over the past twenty years.

EIA does not anticipate the release of fuel ethanol plant production capacity data to cause any competitive harm to respondents to Form EIA–819 because this type of information is currently publicly available over the Internet. The Renewable Fuels Association publishes nameplate ethanol production capacity as well as the actual operating production and under-construction capacity at the facility level available at *http://www.ethanolrfa.org/bio-refinery-locations.* EIA is proposing only to release capacity information at the facility level and will continue to protect all other information reported on Form EIA–819 from being released in identifiable form.

III. Request for Comments

Respondents to Form EIA–819 and other interested parties should comment on the actions discussed in item II. Comments submitted in response to this notice will be considered by EIA and become a matter of public record.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2012–5102 Filed 3–1–12; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP12–72–000; PF11–9–000]

Dominion Transmission, Inc.; Notice of Application

Take notice that on February 17, 2012, Dominion Transmission, Inc. (DTI), having its principal place of business at 701 East Cary Street, Richmond, Virginia 23219, filed an application in Docket No. CP12–72–000 pursuant to Section 7(c) of the Natural Gas Act (NGA) and part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate its Allegheny Storage Project. The Allegheny Storage Project consists of the construction and operation of facilities in Frederick County, Maryland; Monroe County, Ohio; Lewis County, West Virginia; and Tioga County, Pennsylvania. Specifically, DTI proposes to construct new compressor stations and appurtenant facilities and upgrade two metering and regulating stations in Franklin County, Maryland and Monroe County, Ohio; install additional glycol dehydration at DTI's existing Wolf Run compressor station in Lewis County, West Virginia; construct and replace piping and ancillary facilities at its Sabinsville storage facility in Tioga County, Pennsylvania; and increase the storage capacities at its Fink Kennedy/Lost Creek storage facility and Sabinsville storage facility, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Amanda K. Prestage, Regulatory and Certificates Analyst III, Dominion Transmission, Inc., 701 East Cary Street, Richmond, Virginia, 23219 by calling (804) 771–4416 or fax (804) 771–4804 or email *Amanda.K.Prestage@dom.com.*

On July 28, 2011, the Commission staff granted DTI's request to use the pre-filing process and assigned Docket No. PF11–9–000 to staff activities involving the Allegheny Storage Project. Now, as of the filing of this application on February 17, 2012, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket No. CP12–72–000, as noted in the caption of this Notice.

Pursuant to section 157.9 of the Commission's regulations, 18 CFR 157.9, within 90 days of this Notice, the Commission's staff will either complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission's staff issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to reach a final decision on a request for federal authorization within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: 5 p.m. Eastern Time on March 16, 2012.

Dated: February 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5135 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–75–000.
Applicants: Iberdrola Finance UK Limited, Central Maine Power Company, Maine Electric Power Company, New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation.
Description: Section 203 Application of Central Maine Power Company, et al.
Filed Date: 2/23/12.
Accession Number: 20120223–5064.
Comments Due: 5 p.m. ET 3/15/12.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG12–34–000.
Applicants: High Majestic Wind II, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of High Majestic Wind II, LLC.
Filed Date: 2/23/12.
Accession Number: 20120223–5074.
Comments Due: 5 p.m. ET 3/15/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1146–000.
Applicants: Kentucky Utilities Company.
Description: 02_23_12 KU Errata Filing to be effective 2/24/2012.
Filed Date: 2/23/12.
Accession Number: 20120223–5054.
Comments Due: 5 p.m. ET 3/15/12.

Docket Numbers: ER12–1147–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Notice of Cancellation of Vermillion Rate Schedule to be effective 1/12/2012.
Filed Date: 2/23/12.
Accession Number: 20120223–5065.
Comments Due: 5 p.m. ET 3/15/12.

Docket Numbers: ER12–1148–000.
Applicants: KODA Energy, LLC.
Description: KODA Energy MBR Tariff to be effective 2/23/2012.
Filed Date: 2/23/12.
Accession Number: 20120223–5068.
Comments Due: 5 p.m. ET 3/15/12.

Docket Numbers: ER12–1149–000.
Applicants: Southwest Power Pool, Inc.
Description: 1636R7 Kansas Electric Power Cooperative, Inc. NITSA NOA to be effective 2/1/2012.
Filed Date: 2/23/12.
Accession Number: 20120223–5069.
Comments Due: 5 p.m. ET 3/15/12.

Docket Numbers: ER12–1150–000.
Applicants: Southern Company Services, Inc.
Description: Southern Company Services, Inc.'s Notice of Termination of Longleaf LGIA.
Filed Date: 2/23/12.
Accession Number: 20120223–5081.
Comments Due: 5 p.m. ET 3/15/12.

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: February 23, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5066 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–396–000.
Applicants: Texas Eastern Transmission, LP.
Description: FOSA Modifications—FTS Agreements to be effective 4/1/2012.

Filed Date: 2/23/12.
Accession Number: 20120223–5087.
Comments Due: 5 p.m. ET 3/6/12.

Docket Numbers: RP12–397–000.
Applicants: Sabine Pipe Line LLC.
Description: Sabine Pipe Line LLC 2012 FRP & UFRP Tariff Filing to be effective 4/1/2012.
Filed Date: 2/24/12.
Accession Number: 20120224–5000.
Comments Due: 5 p.m. ET 3/7/12.

Docket Numbers: RP12–398–000.
Applicants: Iberdrola Renewables, Inc., Iberdrola Energy Services LLC.
Description: Petition for Waiver of Gas Regulations of Iberdrola Renewables, Inc. and Iberdrola Energy Services LLC.
Filed Date: 2/23/12.
Accession Number: 20120223–5115.
Comments Due: 5 p.m. ET 3/1/12.

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.

Filings in Existing Proceedings

Docket Numbers: RP11–1566–010.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Rate Case 2011—Settlement Implementation Clean Up Sheet No. 19 to be effective 2/1/2012.
Filed Date: 2/23/12.
Accession Number: 20120223–5055.
Comments Due: 5 p.m. ET 3/6/12.

Docket Numbers: RP12–262–001.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits tariff filing per 154.203: RPL Modification Compliance to be effective N/A.
Filed Date: 2/24/12.
Accession Number: 20120224–5051.
Comments Due: 5 p.m. ET 3/7/12.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service 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: February 24, 2012.

Nathaniel J. Davis, Sr.

Deputy Secretary.

[FR Doc. 2012–5067 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1142–000.
Applicants: PJM Interconnection, L.L.C., American Transmission Systems, Incorporation.
Description: FirstEnergy submits FE–AMP Meter Installation & Maintenance Service Agreement No. 3199 to be effective 1/26/2012.
Filed Date: 2/22/12.
Accession Number: 20120222–5121.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: ER12–1143–000.
Applicants: Southwestern Electric Power Company.
Description: 20120222 Hope PSA Compliance to be effective 12/17/2010.
Filed Date: 2/22/12.
Accession Number: 20120222–5123.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: ER12–1144–000.
Applicants: WSPP Inc.
Description: New Service Schedule R to WSPP Agreement to be effective 4/22/2012.
Filed Date: 2/22/12.
Accession Number: 20120222–5126.
Comments Due: 5 p.m. ET 3/14/12.

Docket Numbers: ER12–1145–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc.'s Notice of Cancellation of Large Generator Interconnection Agreement.
Filed Date: 2/22/12.
Accession Number: 20120222–5148.
Comments Due: 5 p.m. ET 3/14/12.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM12–2–001.
Applicants: Public Service Company of New Mexico.
Description: Supplemental Response to deficiency letter that amends the November 30, 2011 filing of Public Service Company of New Mexico.
Filed Date: 2/22/12.
Accession Number: 20120222–5111.
Comments Due: 5 p.m. ET 3/14/12.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR12–4–000.
Applicants: North American Electric Reliability Corp.
Description: Petition of the North American Electric Reliability Corporation for Approval of Amendments to Delegation Agreement with Florida Reliability Coordinating Council—Amendments to FRCC's Bylaws and to Exhibit D of the FRCC Delegation Agreement.
Filed Date: 2/22/12.
Accession Number: 20120222–5151.
Comments Due: 5 p.m. ET 3/14/12.

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: February 23, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5065 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Designation of Commission Staff as Non-Decisional

Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects.	Docket No. AD12–9–000.
Priority Rights to New Participant-Funded Transmission	Docket No. AD11–11–000.
Puget Sound Energy, Inc.	Docket No. EL10–72–001.

National Grid Transmission Services Corporation Bangor Hydro Electric Company	Docket No. EL11–49–000.
Rock Island Clean Line LLC	Docket No. ER12–365–000.

With respect to the workshop to be held by Commission staff on February 28, 2012 in Docket No. AD12–9–000, the following Commission staff are designated as non-decisional in deliberations by the Commission in this docket: Robert McLean, Office of the General Counsel; David Faerberg, Office of the General Counsel; David Maranville, Office of the General Counsel; and David Hunger, Office of Energy Policy and Innovation. Accordingly, pursuant to 18 CFR 385.2202 (2010), they will not serve as advisors to the Commission with respect to any of the above-referenced dockets. Likewise, as non-decisional staff, pursuant to 18 CFR 385.2201 (2010), they are prohibited from communicating with advisory staff concerning any deliberations with respect to the above-referenced dockets.

Dated: February 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5064 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14241–001]

Alaska Energy Authority; Notice of Intent To File License Application, Filing of Pre-Application Document (PAD), and Commencement of Pre-Filing Process; Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping; Request for Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Commencing Pre-filing Process.

b. *Project No.:* 14241–000.

c. *Date Filed:* December 29, 2011.

d. *Submitted by:* Alaska Energy Authority (AEA).

e. *Name of Project:* Susitna-Watana Hydroelectric Project.

f. *Location:* On the Susitna River at river mile 184 above the mouth, near Cantwell, in Matanuska-Susitna Borough, Alaska. The project would occupy federal lands currently administered by the U.S. Bureau of Land Management (BLM) but selected for potential acquisition by the State of Alaska under the Alaska Statehood Act, state lands administered by the Alaska Department of Natural Resources, and private lands owned by Alaska Native Corporations and others.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations

h. *Potential Applicant Contact:* Wayne Dyok, Susitna-Watana Project Manager, Alaska Energy Authority, 813 West Northern Lights Boulevard, Anchorage, AK 99503.

i. *FERC Contact:* David Turner at (202) 502–6091 or email at *david.turner@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402 and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. On January 23 and 30, 2012, respectively, we designated AEA as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. AEA filed with the Commission a Pre-Application Document (PAD; including a proposed process plan and schedule), pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Commission's staff Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application must be filed with the Commission. Documents may be filed electronically via the Internet.

p. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All filings with the Commission must include on the first page, the project name (Susitna-Watana Hydroelectric Project) and number (P–14241–000), and bear the appropriate heading: ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 27, 2012.

p. We intend to prepare an Environmental Impact Statement (EIS) for this project. The scoping meetings

identified below satisfy the NEPA scoping requirements.

Scoping Meetings

Commission staff will hold scoping meetings for the project at the time and place described below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meetings are primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or all of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document.

Date	Time	Place
Monday, March 26, 2012	6 p.m.–10 p.m	Loussac Library, 3600 Denali Street, Anchorage, AK 99503.
Tuesday, March 27, 2012	9 a.m.–2 p.m	Loussac Library, 3600 Denali Street, Anchorage, AK 99503.
Tuesday, March 27, 2012	6 p.m.–10 p.m	Menard Memorial Sports Center, 1001 S. Mack Drive, Wasilla, AK 99654.
Wednesday, March 28, 2012	6 p.m.–10 p.m	Su-Valley Jr/Sr High School, 42728 S. Parks Highway, Sunshine, AK 99676.
Wednesday, March 28, 2012	6 p.m.–9 p.m	Caribou Café Banquet Room, 187 Glenn Highway, Glennallen, AK 99588.
Thursday, March 29, 2012	6 p.m.–10 p.m	Westmark Hotel & Conference Center, 813 Noble Street, Fairbanks, AK 99701.
Thursday, March 29, 2012	6 p.m.–10 p.m	Cantwell Community Hall, Milepost 133.1 on the Denali Hwy., Cantwell, AK 99729.

Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will be placed in the public records of the project.

Dated: February 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5136 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1137–000]

Entra Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Entra Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 14, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 23, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5005 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1152–000]

Bounce Energy PA, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Bounce Energy PA, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 19, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5068 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–1153–000]

Bounce Energy NY, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Bounce Energy NY, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 19, 2012.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–5063 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–135]

Alabama Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2146–135.

c. *Date Filed:* February 7, 2012.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Project.

f. *Location:* The project is located on the Coosa River in Cherokee, Etowah, Calhoun, St. Clair, Talladega, Shelby, Coosa, Chilton, and Elmore counties, Alabama, and Floyd County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James F. Crew, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291–8180, (205) 257–4265.

i. *FERC Contact:* Kelly Houff, (202) 502–6393, *Kelly.Houff@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* March 13, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters,

without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Application:* Alabama Power Company seeks approval to replace turbine units 1 and 4 at the Lay Development, and turbine unit 2 at the Bouldin Development of the Coosa River Project. Specifically, at the Lay Development the licensee proposes to complete turbine refurbishment of the two turbines, stator coil replacement, wicket gate system rehabilitation, greaseless gate stem bushings installation, turbine and generator bearing refurbishment, and related component upgrades. For the Bouldin Development, the licensee proposes complete turbine refurbishment, stator coil replacement, wicket gate system rehabilitation or replacement, greaseless gate stem bushings installation, turbine and generator bearing refurbishment, and related component upgrades. The turbine unit modifications are expected to increase the turbine rating for each unit by approximately 4 megawatts (MW), as well as increase efficiency and annual generation. However, since the units are generator-limited, the installed capacity at the Lay and Bouldin developments will not change. The unit replacements at the Lay Development would provide approximately 13.6 percent increase in energy output, and the current full gate flow of 5,770 cubic feet per second (cfs) is expected to remain the same, plus or minus 15 percent. The unit replacement at the Bouldin Development would provide approximately 5 percent increase in energy output, and the current full gate flow of 9,600 cfs is expected to remain the same, plus or minus 15 percent.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–2146–135) excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Any filings must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments: Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: February 27, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5108 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14327–000]

Pershing County Water Conservation District; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process/Alternative Licensing Procedures

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process/Alternative Licensing Procedures.

b. *Project No.:* 14327–000.

c. *Date Filed:* November 22, 2011.

d. *Submitted by:* Pershing County Water Conservation District (Pershing County).

e. *Name of Project:* Humboldt River Hydroelectric Project.

f. *Location:* At the existing Department of the Interior—Bureau of Reclamation's Rye Patch Dam on the Humboldt River, in Pershing County, Nevada. The project occupies 0.01 acre of United States lands administered by the Bureau of Reclamation.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Bennie Hodges, Pershing County Water Conservation District, P.O. Box 218, Lovelock, NV 89419; (775) 273–2293.

i. *FERC Contact:* Shana Murray at (202) 502–8333; or email at *shana.murray@ferc.gov.*

j. Pershing County filed its request to use the Traditional Licensing Process/Alternative Licensing Procedures on November 22, 2011. Pershing County provided public notice of its request on November 22, 2011. In a letter dated February 24, 2012, the Director of the Division of Hydropower Licensing approved Pershing County's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Nevada State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Pershing County filed a Pre-Application Document (PAD), including a proposed process plan and schedule, with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: February 24, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5134 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12796–004]

City of Wadsworth, Ohio; Notice of Scoping Meeting and Environmental Site Review and Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Original License.

b. *Project No.:* P–12796–004.

c. *Date filed:* March 28, 2011.

d. *Applicant:* City of Wadsworth, Ohio.

e. *Name of Project:* R.C. Byrd Hydroelectric Project.

f. *Location:* On the Ohio River at the U.S. Army Corps of Engineers' (Corps), R.C. Byrd Locks and Dam (river mile 279.2), approximately 12.7 miles south of the confluence of the Ohio River and the Kanawha River, nine miles south of the Town of Gallipolis, Gallia County, Ohio. The project would occupy 7.6 acres of federal land managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Chris Easton, Director of Public Service, the City of Wadsworth, Ohio, 120 Maple Street, Wadsworth, OH 44281 (330–335–2777); Philip E. Meier, Hydro Development, American Municipal Power, Inc., 1111 Schrock Road, Suite 100, Columbus, OH (614–540–0913).

i. *FERC Contact:* Gaylord Hoisington, (202) 502–6032 or *gaylord.hoisington@ferc.gov.*

j. *Deadline for filing scoping comments:* April 27, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/efiling.asp*). Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filings, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application is not ready for environmental analysis at this time.

l. The proposed project would utilize the existing Corps' R.C. Byrd Locks and Dam and would consist of the following new facilities: (1) A 1,200-foot-long intake channel; (2) a trashrack located in front of each of the generating unit intakes, with a bar spacing of approximately 8 inches; (3) a reinforced concrete powerhouse measuring approximately 258 feet long by 145 feet wide by 110 feet high, and housing two bulb-type turbine generator units with a total installed capacity of 50 megawatts; (4) a 900-foot-long tailrace channel; (5) a 2.41-mile-long, 138-kilovolt transmission line; and (6) appurtenant facilities. The proposed project would have an average annual generation of 266 gigawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process.

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Agency Scoping Meeting

Date: Wednesday, March 28, 2012.
Time: 1 p.m. (EDT).
Place: Quality Inn.
Address: 577 State Route 7 North, Gallipolis, Ohio.

Public Scoping Meeting

Date: Wednesday, March 28, 2012.
Time: 7 p.m. (EDT).
Place: Quality Inn.
Address: 577 State Route 7 North, Gallipolis, Ohio.

Copies of the Scoping Document outlining the subject areas to be addressed in the EA, was mailed to the individuals and entities on the Commission's mailing lists and Wadsworth's distribution list. Copies of the Scoping Document will be available

at the scoping meetings, or may be viewed on the web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph m. Based on all oral and written comments, a Revised Scoping Document may be issued. A Revised Scoping Document may include additional issues, identified through the scoping process.

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review beginning at 9 a.m. on March 28, 2012. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Robert C. Byrd Locks and Dam in Gallipolis, Ohio (Ohio side). All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review should contact Philip E. Meier at 614–540–0913 or Gaylord Hoisington at 202–502–6032.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: February 27, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5106 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD12–8–000]

Non-RTO/ISO Performance Metrics; Commission Staff Request Comments on Performance Metrics for Regions Outside of RTOs and ISOs

In September 2008, the United States Government Accountability Office (GAO) issued a report titled ''Electricity Restructuring: FERC Could Take Additional Steps to Analyze Regional Transmission Organizations' Benefits and Performance,'' GAO–08–987. This report recommended that the Chairman of the Federal Energy Regulatory Commission (Commission or FERC), among other actions, work with regional transmission organizations (RTO), Independent System Operators (ISO), stakeholders and other experts to develop standardized measures that track the performance of RTO/ISO operations and markets and report the performance results to Congress and the public annually, while also providing interpretation of (1) what the measures and reported performance communicate about the benefits of RTOs and, where appropriate, (2) changes that need to be made to address any performance concerns. Consistent with the goals outlined in GAO's report, the Commission's Strategic Plan for Fiscal Years 2009–2014 outlined a multi-year process for developing and implementing a common set of performance measures for markets both within and outside of ISOs/RTOs.

As recommended by GAO, Commission staff worked with representatives from all the jurisdictional ISOs/RTOs to develop a set of performance metrics for ISOs and RTOs. Commission staff and ISO/RTO representatives met with interested stakeholders to solicit their perspectives and comments on the proposed performance metrics. Commission staff then released the proposed metrics for public comment in Docket No. AD10–5–000. In October 2010, Commission staff issued a staff report addressing the comments received and recommending a final list of metrics for ISOs and RTOs. In December 2010, the ISOs and RTOs submitted information for the 2005–2009 period addressing the final metrics developed by Commission staff. This information, along with a staff report and analysis of performance as measured by the metrics, was included in a report sent to Congress in April 2011. The ISOs and RTOs subsequently submitted a report providing data for the 2006–2010 period.

Now, Commission staff has started the process of developing metrics to measure performance in regions outside of ISOs and RTOs. Consistent with the process used in developing metrics for ISO/RTO markets, Commission staff has worked with the Edison Electric Institute (EEI) and its members to develop a set of performance metrics for regions outside of ISOs and RTOs. Commission staff, along with EEI and its members, met with interested stakeholders to solicit their perspectives and comments on the proposed performance metrics. These metrics are based on the metrics previously selected in Docket No. AD10–5, but have been tailored to fit markets outside of ISOs and RTOs. We expect that those entities that decide to provide information in response to the final metrics developed in this proceeding will provide data and explain performance trends in a manner consistent with the responses provided by the ISOs and RTOs in Docket No. AD10–5.

Commission staff requests comments on whether the proposed performance metrics (attached) will effectively track the performance of markets outside of ISOs and RTOs. Comments must be filed on or before May 1, 2012. Reply comments must be filed on or before May 16, 2012.

Addresses: Parties may submit comments, identified by Docket No. AD12–08–000, by one of the following methods.

Agency Web site: http://www.ferc.gov/. Follow the instructions for submitting comments via the eFiling link found under the ''Documents and Filing'' tab.

Mail: Those unable to file comments electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

For Further Information Contact: Jeffrey Hitchings, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6042, Email: *jeffrey.hitchings@ferc.gov* or Stephen J. Hug, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8009, Email: *stephen.hug@ferc.gov.*

Information Collection Statement

The following collection of information contained in these proposed metrics is subject to review by

the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1995.[1] OMB's regulations require approval of certain information collection requirements imposed by agency actions.[2] The Commission solicits comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

The proposed collection of information requires those public utilities outside of ISOs and RTOs that choose to participate to provide information responding to the attached metrics on a periodic basis. This includes the submission of price data and information relating to reliability, transmission planning, requests for service, and system capacity. The information submitted by participating utilities would be used to help develop a common set of metrics for both ISO/RTO markets and non-RTO/ISO markets, and for evaluating market performance thereafter.

Burden Estimate: The additional estimated public reporting burdens for the proposed reporting requirements in this rule are as follows.

FERC–922 requirements	Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
Metrics Data Collection	11	1	80	880
Write Performance Analysis	11	1	60	660
Total				1,540

We estimate that it will take, on average, one technical analyst two weeks to collect the data to respond to the metrics. We also estimate that it will take one technical analyst one week to write a report responding to the metrics and it will take one manager approximately 20 hours to review the report.

Cost to Comply: The Commission has projected the cost of compliance to be $106,920.

Technical Expertise = $89,760 (880 hours data collection + 440 hours report completion @ $68 per hour).

Management Review = $17,160 (220 hours report review @ $78 per hour).

Cost per hour figures are calculated using Bureau of Labor Statistics (BLS) data.[3] The technical expertise category factors in the median wage for an engineer, analyst, attorney and economist. The management category factors in the median wage for general and operations managers. Based on BLS data,[4] both cost figures have been adjusted to include benefits (benefits represent 29.5% of the total hourly figure).

Title: FERC–922, Non-RTO/ISO Performance Metrics.

Action: Proposed Collection.

OMB Control No. TBD.

Internal Review: The Commission has reviewed the proposed metrics and has determined that the metrics and data gathered thereunder are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director], email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873. Comments on the collections of information and the associated burden estimates in this proceeding should be sent to the Commission in this docket and may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number AD12–08–000 and FERC–922.

Dated: February 23, 2012.

Kimberly D. Bose,

Secretary.

Attachment

PROPOSED PERFORMANCE METRICS FOR NON-ISO/RTO REGIONS

[Based on ISO/RTO metrics from Docket No. AD10–5–000]

Performance metric	Specific metric(s)
Reliability	
A. National or Regional Reliability Standards Compliance.	1. References to which Electricity Reliability Organization (ERO) and Regional Reliability Organization (RRO) standards are applicable. 2. Number of violations self-reported and made public by NERC/FERC. 3. Number of violations identified and made public as RRO or ERO audit findings. 4. Total number of violations made public by NERC/FERC. 5. Severity level of each violation made public by NERC/FERC.

[1] 44 U.S.C. 3507 (2006). The Paperwork Reduction Act requires OMB approval of certain information collection activities when these activities apply to 10 or more persons. Because it is estimated that 11 entities will respond to this collection the Commission is requesting approval from OMB.

[2] 5 CFR part 1320 (2011).

[3] See *http://bls.gov/oes/current/naics4_221100.htm#(3).*

[4] See *http://www.bls.gov/news.release/ecec.nr0.htm.*

PROPOSED PERFORMANCE METRICS FOR NON-ISO/RTO REGIONS—Continued

[Based on ISO/RTO metrics from Docket No. AD10–5–000]

Performance metric	Specific metric(s)
	6. Compliance with operating reserve standards. 7. Unserved energy (or load shedding) caused by violations. Additional detail will be provided on (1) number of events; (2) duration of the events; (3) whether the events occurred during on/off-peak hours; and (4) additional information on equipment types affected and kV of lines affected. Items 2–7: Track the ISO/RTO definition: ''This metric is a quantification of all NERC and RRO Reliability Standards violations that have been identified during an audit or as a result of an ISO/RTO self-report and have been published as part of that process.'' Non-ISO/RTO utilities should limit reporting to the same eight functional areas used by the ISO/RTOs: 1. Balancing Authority. 2. Interchange Authority. 3. Planning Authority. 4. Reliability Coordinator. 5. Resource Planner. 6. Transmission Operator. 7. Transmission Planner. 8. Transmission Service Provider.
B. Dispatch Reliability	1. Balance Authority Ace Limit (BAAL) OR// CPS1 and CPS2. 2. Number of events of transmission load reliefs (of severity level 3 or higher) called by the incumbent transmission provider or unscheduled flows. • WECC entities will report events under the WECC Unscheduled Flow Mitigation Procedure (equivalent to the NERC TLR Level three). 3. Energy Management System (EMS) availability.
C. Operational Planning—Load Forecast Accuracy.	Actual peak load as a percentage variance from forecasted peak load as reported in OASIS.
D. Wind Forecasting Accuracy	Actual wind availability compared to forecasted wind availability.
E. Unscheduled Flows	Difference between net actual interchange (actual measured power flow in real time) and the net scheduled interchange in megawatt hours. • Reported in Form 714.
F. Transmission Outage Coordination.	Report information posted on OASIS (percentage of outages, planned and unplanned, with less than 2 days notice).
G. Long-Term Reliability Planning—Transmission.	1. Dollar amount of facilities approved to be constructed for reliability purposes. 2. Percentage of approved construction completed. 3. Performance of planning process related to: a. Requests for and number of completed reliability studies. b. Narrative detailing economic studies process. Discussion of stakeholder process and identification of stakeholder groups participating.
H. Long-Term Reliability Planning—Resources.	1. Processing time for generation interconnection requests. 2. Planned reserve margins. 3. Explanation of the nature and characteristics of demand response programs and how they are used in system planning.
I. Infrastructure Investment—Interconnection and Transmission Process Metrics.	1. Number of requests. 2. Number of studies completed. 3–5. Total cost and types of studies completed (e.g., feasibility study, system impact study and facility study). 6. Number of transmission access denials/transmission service requests (TSRs) denied.
J. Special Protection Systems	1. Number of special protection systems. 2. Percentage of special protection systems that responded as designed when activated. • Applicable pool of special protection systems should be based on how the reporting entity's Regional Entity defines ''special protection systems.'' 3. Number of unintended activations.
System Operations Measures	
A. Demand Response	Comprehensive explanation of the nature of utility demand response programs implemented for load management as well as in compliance with state requirements.
B. System Lambda	System Lambda (on marginal unit). • Proposed System Lambda metric would not apply to utilities where the marginal price is typically set by hydro units. • System lambda data will be based on Form 714 information.
C. Congestion Management	Congestion analysis per Order No. 890.
D. Resource Availability	System forced outage rate as measured over 12 months.
E. Transmission System Availability	Interrupted load megawatt hours as a percentage of load served.
F. Fuel Diversity	Fuel diversity in terms of energy, installed capacity and actual production.
G. Clean Energy	1. Clean Energy megawatt hours, by resource type, as a percentage of total energy. 2. Clean Energy megawatts, by resource type, as a percentage of total capacity.
Organizational Effectiveness	
Not applicable to non-RTO entities	

[FR Doc. 2012–5004 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–5–000]

Electronic Tariff Filings; Notice of Procedures for Public Utilities Seeking To Extend the Date for Commission Action on Statutory Filings

This is to provide notice that Commission staff has posted (at *http://www.ferc.gov/docs-filing/etariff/comm-order/extend-date.pdf*) procedures that public utilities filing under Part 35 must follow if they seek to extend the date by which the Commission must act on a rate case or other statutory filing.

Dated: February 23, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5003 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3287–006]

American Land Company, LLC, Burnshire Hydroelectric, LLC; Notice of Transfer of Exemption

1. By letter filed February 14, 2012, American Land Company, LLC informed the Commission that its exemption from licensing for the Burnshire Dam Project No. 3287, originally issued September 22, 1982,[1] has been transferred to Burnshire Hydroelectric, LLC. The project is located on the North Fork, Shenandoah River in Shenandoah County, Virginia. The transfer of an exemption does not require Commission approval.

2. Burnshire Hydroelectric, LLC, located at 480 N Pifer Road, Star Tannery, Virginia 22654 is now the exemptee of the Burnshire Dam Project No. 3287.

Dated: February 27, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–5107 Filed 3–1–12; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,512, Order Granting Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less.

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9001–8]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 02/20/2012 Through 02/24/2012

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20120043, Draft EIS, USFS, CA, On Top Hazardous Fuels Reduction Project, To Disclose the Environmental Effects of a Federal Proposal on National Forest System (NFS) Land, Plumas National Forest, Feather River Ranger District, Plumas, Butte Counties, CA, *Comment Period Ends:* 04/16/2012, *Contact:* Carol Spinos, 530–534–6500;

EIS No. 20120044, Final EIS, BR, WA, PROGRAMMATIC—Yakima River Basin Integrated Water Resource Management Plan, To Meet the Water Supply and Ecosystem Restoration Needs, Benton, Kittitas, Klickitat and Yakima Counties, WA, *Review Period Ends:* 04/02/2012, *Contact:* Candace McKinley, 509–575–5848 ext. 613;

EIS No. 20120045, Final EIS, USACE, FL, St. Lucie County South Beach and Dune Restoration Project, To Restore Recreational Beach, Restore Beach and Habitat, and Reduce Storm Damage Due to Beach Erosion, St. Lucie County, FL, *Review Period Ends:* 04/02/2012, Contact: Garett Lipps, 561–472–3519;

EIS No. 20120046, Draft EIS, NPS, VI, Buck Island Reef National Monument General Management Plan, Implementation, St. Croix, Virgin Islands, *Comment Period Ends:* 05/01/2012, *Contact:* Joel A. Tutein, 340–773–1460;

EIS No. 20120047, Draft EIS, BIA, WA, West Plains Casino and Mixed-Use Development Project, Approval of Gaming Development and Management, Spokane Tribe of Indians, Spokane County, WA, *Comment Period Ends:* 04/16/2012, *Contact:* Dr. B.J. Howerton, 503–231–6749;

EIS No. 20120048, Draft EIS, NPS, WI, Ice Age Complex at Cross Plains General Management Plan, Implementation, Ice Age National Scenic Trail, Dane County, WI, *Comment Period Ends:* 04/30/2012, *Contact:* Pam Shuler, 608–441–5610;

EIS No. 20120049, Final EIS, GSA, DC, Department of Homeland Security Headquarters Consolidation at St. Elizabeth's Master Plan Amendment—East Campus North Parcel, St. Elizabeth's Campus in Southeast Washington, DC, *Review Period Ends:* 04/02/2012, *Contact:* Denise Decker, 202–538–5643;

EIS No. 20120050, Final Supplement, USFS, MT, Grizzly Vegetation and Transportation Management Project, Updated and Additional Information, Proposes Timber Harvest, Prescribed Burning, Road Maintenance, and Transportation Management Actions, Three Rivers Ranger District, Kootenai National Forest, Lincoln County, MT, *Review Period Ends:* 04/02/2012, *Contact:* Leslie McDougall, 406–295–4693;

EIS No. 20120051, Draft EIS, BLM, AK, Eastern Interior Resource Management Plan, To Provide Comprehensive Framework to Guide Management of Public Lands, AK, *Comment Period Ends:* 07/30/2012, *Contact:* Jeanie Cole, 907–474–2200;

EIS No. 20120052, Final EIS, USFS, ID, Little Slate Project, Proposes Watershed Improvement, Timber Harvest, Fuel Treatments, Soil Restoration and Access Changes in the Little Slate Creek, Salmon River Ranger District, Nez Perce National Forest, Idaho County, ID, *Review Period Ends:* 04/02/2012, *Contact:* Tammy Harding, 208–935–4263.

Amended Notices

EIS No. 20120005, Draft EIS, NRCS, HI, WITHDRAWN—South Kona Watershed Irrigation System, To Provide Supplemental Irrigation Water to Farms in the Honomalino/Kapu'a Area, Funding, County of Hawaii, HI, Comment Period Ends: 03/05/2012, *Contact:* Sharon Sawdey, 808–541–2600, ext. 125.

Revision to FR Notice Published 1/20/2012: Officially Withdrawn by the Preparing Agency.

Dated: February 28, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–5131 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9642–1; EPA–HQ–ORD–2011–0739]

Draft Toxicological Review of Biphenyl: In Support of Summary Information on the Integrated Risk Information System (IRIS); Peer Review Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer review meeting.

SUMMARY: EPA is announcing that Versar, Inc., an EPA contractor for external scientific peer review, will convene an independent panel of experts and organize and conduct an external peer review meeting to review the draft human health assessment titled, ''Toxicological Review of Biphenyl: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–11/005A). The draft assessment was prepared by the National Center for Environmental Assessment (NCEA) within the EPA Office of Research and Development.

EPA is releasing this draft assessment for the purposes of public comment and peer review. This draft assessment is not final as described in EPA's information quality guidelines and it does not represent and should not be construed to represent Agency policy or views.

Versar invites the public to register to attend this meeting as observers. In addition, Versar invites the public to give brief oral comments and/or provide written comments at the meeting regarding the draft assessment under review. Space is limited, and reservations will be accepted on a first-come, first-served basis. In preparing a final report, EPA will consider Versar's report of the comments and recommendations from the external peer review meeting and any written public comments that EPA received in accordance with the announcements of the public comment period for the biphenyl assessment in a **Federal Register** Notice published September 30, 2011, (76FR60827).

DATES: The peer review panel meeting on the draft assessment for Biphenyl will be held on Tuesday, April 3, 2012, beginning at 9 a.m. and end at 5 p.m. Eastern Daylight Time.

ADDRESSES: The draft ''Toxicological Review of Biphenyl: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team (Address: Information Management Team, National Center for Environmental Assessment [Mail Code: 8601P], U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: 703–347–8561; facsimile: 703–347–8691). If you request a paper copy, please provide your name, mailing address, and the draft assessment title.

The peer review meeting on the draft Biphenyl assessment will be held at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia 22202. To attend the meeting, register no later than Tuesday, March 27, 2012, by calling Versar: 703–642–6727, calling toll free: 1–800–2–VERSAR, ext. 6727, sending a facsimile to: 703–642–6809, or sending an email to: *bcolon@versar.com.* Space is limited, and reservations will be accepted on a first-come, first-served basis. There will be a limited time at the peer review meeting for comments from the public. Please inform Versar if you wish to make comments during the meeting.

Information on Services for Individuals with Disabilities: EPA welcomes public attendance at the ''Biphenyl Peer Review Meeting'' and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, contact: Betzy Colon, by phone: 703–642–6727, or email: *bcolon@versar.com.*

Additional Information: For information on registration, access, or services for individuals with disabilities, or logistics for the external peer review meeting, please contact Versar by calling: 703–642–6727, or calling Toll free: 1–800–2–VERSAR, or sending an email to: *bcolon@versar.com.*

For information on the draft IRIS assessment, please contact Zheng (Jenny) Li, National Center for Environmental Assessment (Mail Code: 8601P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: 703–347–8577; send a facsimile to: 703–347–8689, or email: *FRN_Questions@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA's IRIS is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemical substances found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities. The IRIS database contains information for more than 550 chemical substances that can be used to support the first two steps (hazard identification and dose-response evaluation) of the risk assessment process. When supported by available data, IRIS provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic noncancer health effects and cancer assessments. Combined with specific exposure information, government and private entities use IRIS to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

Dated: February 23, 2012.

Darrell A. Winner,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2012–5133 Filed 3–1–12; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 2011–0083]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the United States.

ACTION: Submission for OMB Review and Comments Request.

Form Title: EIB 11–08 Application for Global Credit Express Revolving Line of Credit.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

The Application for Global Credit Express Revolving Line of Credit will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its Working Capital Guarantee and Direct Loan Program. Export-Import Bank customers will be able to submit this form on paper or by fax.

This is a new application form for use by small U.S. businesses with limited export experience. Companies that are eligible to use the Application for Global Credit Express Revolving Line of Credit will need to answer approximately 35 questions and sign an

acknowledgement of the certifications that appear on page 5 of the application form. This program relies to a large extent on the exporter's qualifying score on the FICO (Fair Isaac Corporation) SBSS (Small Business Scoring Service). Therefore the financial and credit information needs are minimized. This new form incorporates the recently updated standard Certifications and Notices section as well as one question about the amount of U.S. employment to be supported by this program.

The application can be reviewed at: *www.exim.gov/pub/pending/EIB11-08.pdf.* Application for Global Credit Express Revolving Line of Credit.

DATES: Comments should be received on or before (insert 30 days after publication) to be assured of consideration.

ADDRESSES: Comments may-be submitted electronically on *www.regulations.gov* or by mail to Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20038 attn: OMB 3048–0038

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 11–08 Application for Global Credit Express Revolving Line of Credit.

OMB Number: 3048–0038

Type of Review: New

Need and Use: The Application for Global Credit Express Revolving Line of Credit will be used to determine the eligibility of the applicant and the transaction for Export-Import Bank assistance under its Working Capital Guarantee and Direct Loan Program.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 1.5 hours.

Government Annual Burden Hours: 500 hours.

Frequency of Reporting or Use: Once per year.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2012–5170 Filed 3–1–12; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Release of the Exposure Draft, Accounting for Impairment of General Property, Plant, and Equipment Remaining in Use

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has released the Exposure Draft, *Accounting for Impairment of General Property, Plant, and Equipment Remaining in Use.*

The Exposure Draft is available on the FASAB home page *http://www.fasab.gov/board-activities/documents-for-comment/exposure-drafts-and-documents-for-comment/.* Copies can be obtained by contacting FASAB at (202) 512–7350. Respondents are encouraged to comment on any part of the exposure draft. Written comments on the Exposure Draft are requested by May 28, 2012. Comments on the Exposure Drafts should be sent to: Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: February 28, 2012.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 2012–5144 Filed 3–1–12; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted to OMB for Review and Approval

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; ways to enhance the quality, utility, and clarity of the information collected; (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before April 2, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via email *Nicholas_A._Fraser@omb.eop.gov <mail to: Nicholas_A._Fraser@omb.eop.gov>* and to Cathy Williams, FCC, via email *PRA@fcc.gov <mail to: PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov <mail to: Cathy.Williams@fcc.gov.>* Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

OMB Control Number: 3060–XXXX.

Title: Accessible Telecommunications and Advanced Communications Services and Equipment.

Form Number: N/A.

Type of Review: New collection.

Respondents: Individuals or households; Businesses or other for-profit entities; Not-for-profit Institutions.

Number of Respondents and Responses: 9,454 respondents; 119,660 responses.

Estimated Time per Response: .50 to 40 hours.

Frequency of Response: Annual, one time, and on occasion reporting requirements; Recordkeeping requirement; Third-party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in sections 1–4, 255, 303(r), 403, 503, 716, 717, and 718 of the Act, 47 U.S.C. 151–154, 255, 303(r), 403, 503, 617, 618, and 619.

Total Annual Burden: 408,695 hours.

Total Annual Cost: $110,588.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.'' As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–1 ''Informal Complaints and Inquiries'', in the **Federal Register** on December 15, 2009 (74 FR 66356) which became effective on January 25, 2010.

In addition, upon the service of an informal or formal complaint, a service provider or equipment manufacturer must produce to the Commission, upon request, records covered by 47 CFR 14.31 of the Commission's rules and may assert a statutory request for confidentiality for these records. All other information submitted to the Commission pursuant to Subpart D of Part 14 of the Commission's rules or to any other request by the Commission may be submitted pursuant to a request for confidentiality in accordance with 47 CFR 0.459 of the Commission's rules.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.* The Commission is in the process of updating the PIA to incorporate various revisions made to the SORN.

Note: The Commission will prepare a revision to the SORN and PIA to cover the PII collected related to this information collection, as required by OMB's Memorandum M–03–22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. 552a.

Needs and Uses: On October 7, 2011, in document FCC 11–151, the Commission released a *Report and Order* adopting final rules to implement sections 716 and 717 of the Communications Act of 1934 (the Act), as amended, which were added to the Act by the ''Twenty-First Century Communications and Video Accessibility Act of 2010'' (CVAA). *See* Public Law 111–260, § 104. Section 716 of the Act requires providers of advanced communications services and manufacturers of equipment used for advanced communications services to make their services and equipment accessible to individuals with disabilities, unless doing so is not achievable. *See* 47 U.S.C. 617. Section 717 of the Act establishes new recordkeeping requirements and enforcement procedures for service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act. *See* 47 U.S.C. 618. Section 255 of the Act requires telecommunications and interconnected VoIP services and equipment to be accessible, if readily achievable. *See* 47 U.S.C. 255. Section 718 of the Act requires web browsers included on mobile phones to be accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. *See* 47 U.S.C. 619.

Specifically, the rules adopted in document FCC 11–151 have the following possible related information collection requirements:

(a) The rules adopted in document FCC 11–151 establish procedures for advanced communications service providers and equipment manufacturers to seek waivers from the accessibility obligations of section 716 of the Act and, in effect, waivers from the recordkeeping requirements and enforcement procedures of section 717 of the Act. Waiver requests may be submitted for individual or class offerings of services or equipment which are designed for multiple purposes, but are designed primarily for purposes other than using advanced communications services. All such waiver petitions will be put on public notice for comments and oppositions.

(b) The CVAA and the rules adopted in document FCC 11–151 require service providers and equipment manufacturers that are subject to sections 255, 716, or 718 of the Act to maintain records of the following: (1) Their efforts to consult with people with disabilities; (2) descriptions of the accessibility features of their products and services; and (3) information about the compatibility of their products with peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access. These recordkeeping requirements are necessary to facilitate enforcement of accessibility obligations. Document FCC 11–151 provides flexibility by allowing covered entities to keep records in any format, recognizing the unique recordkeeping methods of individual entities. Because complaints regarding accessibility of a service or equipment may not occur for years after the release of the service or equipment, covered entities must keep records for two years from the date the service ceases to be offered to the public or the equipment ceases to be manufactured. Service providers and equipment manufacturers are not required to keep records of their consideration of achievability or the implementation of accessibility, but they must be prepared to carry their burden of proof in any enforcement proceeding, which requires greater than conclusory or unsupported claims.

(c) The CVAA and the rules adopted in document FCC 11–151 require an officer of service providers and equipment manufacturers that are subject to sections 255, 716, or 718 of the Act to certify annually to the Commission that records are kept in accordance with the recordkeeping requirements. The certification must be supported with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the entity with personal knowledge of the representations provided in the company's certification, verifying the truth and accuracy of the information. The certification must also identify the name and contact details of the person or persons within the company that are authorized to resolve accessibility complaints, and the agent designated for service of process. The certification must be filed with the Consumer and Governmental Affairs Bureau on or before April 1 each year for records pertaining to the previous calendar year. The certification must be updated when necessary to keep the contact information current.

(d) The Commission also established procedures in document FCC 11–151 to facilitate the filing of formal and informal complaints alleging violations of sections 255, 716, or 718 of the Act. Those procedures include a nondiscretionary pre-filing notice procedure to facilitate dispute resolution. As a prerequisite to filing an informal complaint, complainants must first request dispute assistance from the Consumer and Governmental Affairs Bureau's Disability Rights Office.

The rules adopted in document FCC 11–151 temporarily exempt advanced communications service providers and

equipment manufacturers from the accessibility obligations of section 716 of the Act and, in effect, from the recordkeeping requirements and enforcement procedures of section 717 of the Act, if they qualify as small business concerns under the Small Business Administration's (SBA) rules and size standards for the industry in which they are primarily engaged. These size standards are based on the maximum number of employees or maximum annual receipts of a business concern. The SBA categorizes industries for its size standards using the North American Industry Classification System (NAICS).

The temporary exemption will begin on the effective date of the rules adopted in document FCC 11–151 and will expire the earlier of the following: (1) The effective date of small entity exemption rules adopted pursuant to the Further Notice of Proposed Rulemaking in document FCC 11–151; or (2) October 8, 2013.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2012–5053 Filed 3–1–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting on Wednesday, March 28, 2012 in the Commission Meeting Room, from 1 p.m. to 4 p.m. at the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

DATES: March 28, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; *Walter.Johnston@FCC.gov.*

SUPPLEMENTARY INFORMATION: Technical Advisory Council members made major recommendations to the Commission regarding defined work programs in 2011. This meeting will discuss potential work programs for 2012 and define work groups to support planned work. The FCC will attempt to accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live/.* The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by email: *Walter.Johnston@fcc.gov* or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 7–A224, 445 12th Street SW., Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–5141 Filed 3–1–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 12–257]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing the meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

DATES: Thursday, March 29, 2012, 9:30 a.m.

ADDRESSES: Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 12th Street SW., Room 5–C162, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document in CC Docket No. 92–237, DA 12–257 released February 23, 2012. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document my also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is available on the Commission's Web site at *http://www.fcc.gov.*

The North American Numbering Council (NANC) has scheduled a meeting to be held Thursday, March 29, 2012, from 9:30 a.m. until 2 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five days advance notice;

last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Thursday, March 29, 2012, 9:30 a.m. *

1. Announcements and Recent News.
2. Approval of Transcript—Meeting of December 15, 2011.
3. Report of the North American Numbering Plan Administrator (NANPA).
4. Report of the National Thousands Block Pooling Administrator (PA).
5. Report of the Numbering Oversight Working Group (NOWG).
6. Report of the North American Numbering Plan Billing and Collection (NANP B&C) Agent.
7. Report of the Billing and Collection Working Group (B&C WG).
8. Report of the North American Portability Management LLC (NAPM LLC).
9. Report of the LNPA Selection Working Group (SWG).
10. Report of the Local Number Portability Administration (LNPA) Working Group—NASUCA Issue on Non-Simple Porting Passcodes.
11. Status of the Industry Numbering Committee (INC) activities.
12. Report of the Future of Numbering Working Group (FoN WG).
13. Summary of Action Items.
14. Public Comments and Participation (5 minutes per speaker).
15. Other Business.

Adjourn no later than 2 p.m.

* The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission

Marilyn Jones,

Attorney, Wireline Competition Bureau.

[FR Doc. 2012–5140 Filed 3–1–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

AGENCY: Federal Election Commission.

Federal Register citation of previous announcement—77 FR 10743 (February 23, 2012).

DATE AND TIME: Tuesday, February 28, 2012, at 10 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor)

STATUS: Meeting will be closed to the public.

Changes in the Meeting—The Commission is also expected to discuss:

Investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2012–5052 Filed 2–28–12; 11:15 am]

BILLING CODE 6715–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0014; Docket 2012–0001; Sequence 5]

Federal Supply Service; Information Collection; Standard Form (SF) 123, Transfer Order-Surplus Personal Property and Continuation Sheet

AGENCY: Federal Acquisition Service, (GSA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Standard Form (SF) 123, transfer order-surplus personal property and continuation sheet.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: May 1, 2012.

FOR FURTHER INFORMATION CONTACT: Joyce Spalding, Property Disposal Specialist, Federal Acquisition Service, at telephone (703) 605–2888 or via email to *joyce.spalding@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet'' under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1275 First Street NE., Washington, DC 20417. Attn: Hada Flowers/IC 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet.

Instructions: Please submit comments only and cite Information Collection 3090–0014, Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet is used by public agencies, nonprofit educational or public health activities, programs for the elderly, service educational activities, and public airports to apply for donation of Federal surplus personal property. The SF 123 serves as the transfer instrument and includes item descriptions, transportation instructions, nondiscrimination assurances, and approval signatures.

B. Annual Reporting Burden

Respondents: 36,367.
Responses per Respondent: 1.
Hours per Response: 0.01783.
Total Burden Hours: 648.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755. Please cite OMB Control No. 3090–0014,

Standard Form (SF) 123, Transfer Order—Surplus Personal Property and Continuation Sheet, in all correspondence.

Dated: February 24, 2012.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2012–5092 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[Notice–MC–2012–01; Docket No. 2012–0002; Sequence 7]

The President's Management Advisory Board (PMAB); Notification of Upcoming Public Advisory Meeting

AGENCY: Office of Executive Councils, U.S. General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: The President's Management Advisory Board (PMAB), a Federal Advisory Committee established in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C., App., and Executive Order 13538, will hold a public meeting on Friday, March 30, 2012.

DATES: *Effective date:* March 2, 2012.

Meeting date: The meeting will be held on Friday, March 30, 2012, beginning at 9 a.m. eastern time, ending no later than 1 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Brockelman, Designated Federal Officer, President's Management Advisory Board, Office of Executive Councils, General Services Administration, 1776 G Street NW., Washington, DC 20006, at *stephen.brockelman@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The PMAB was established to provide independent advice and recommendations to the President and the President's Management Council on a wide range of issues related to the development of effective strategies for the implementation of best business practices to improve Federal Government management and operation, with a particular focus on productivity and the application of technology.

Agenda: The main purpose for this meeting is for the PMAB to hear reports from federal agency executives regarding their progress in implementing PMAB's recommendations to the President's Management Council, issued in September 2011. The Board previously heard from agencies regarding their plans to implement the PMAB's recommendations aimed at improving Information Technology (IT) portfolio and project management, IT vendor performance management, Senior Executive Service (SES) leadership development and SES performance appraisal systems at its November 4, 2011 meeting. The meeting will also include a discussion of potential government performance issue areas of focus for the PMAB in the upcoming year. More detailed information on the PMAB recommendations can be found on the PMAB Web site (see below).

Meeting Access: The PMAB will convene its meeting in the Eisenhower Executive Office Building, 1650 Pennsylvania Avenue NW., Washington, DC. Due to security, there will be no public admittance to the Eisenhower Building to attend the meeting. However, the meeting is open to the public; interested members of the public may view the PMAB's discussion at *http://www.whitehouse.gov/live.* Members of the public wishing to comment on the discussion or topics outlined in the Agenda should follow the steps detailed in Procedures for Providing Public Comments below.

Availability of Materials for the Meeting: Please see the PMAB Web site (*http://www.whitehouse.gov/administration/advisory-boards/pmab*) for any available materials and detailed meeting minutes after the meeting.

Procedures for Providing Public Comments: In general, public statements will be posted on the PMAB Web site (see above). Non-electronic documents will be made available for public inspection and copying in PMAB offices at GSA, 1776 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect statements by telephoning (202) 501–1398. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. Any statements submitted in connection with the PMAB meeting will be made available to the public under the provisions of the Federal Advisory Committee Act.

The public is invited to submit written statements for this meeting to the PMAB prior to the meeting until 5 p.m. eastern time on Thursday, March 29, 2012, by the following methods:

Electronic or Paper Statements: Submit written statements to Mr. Brockelman, Designated Federal Officer at *stephen.brockelman@gsa.gov;* or send paper statements in triplicate to Mr. Brockelman at the PMAB GSA address above.

Dated: February 27, 2012.

John C. Thomas,

Deputy Director, Office of Committee and Regulatory Management, Office of Governmentwide Policy, General Services Administration.

[FR Doc. 2012–5047 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–BR–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation; Meeting of the Advisory Council on Alzheimer's Research, Care, and Services

AGENCY: Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces public meeting of the Advisory Council on Alzheimer's Research, Care, and Services (Advisory Council). Notice of these meetings is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Advisory Council on Alzheimer's Research, Care, and Services provides advice on how to prevent or reduce the burden of Alzheimer's disease and related dementias on people with the disease and their caregivers. The chairs of the three subcommittees (Research, Clinical Care, Long-Term Services and Supports) will summarize feedback from their subcommittees on the Draft National Plan to Address Alzheimer's Disease. This feedback will be discussed among the full Advisory Council.

DATES: *Meeting Date:* March 14, 2012 from 1 p.m. to 5 p.m. EST.

ADDRESSES: The meeting will be a teleconference. To attend, call 888–324–8105, pass-code 8952315. Please call 10 minutes prior to the beginning of the conference call to facilitate attendance. Individuals who wish to participate should send an email to *napa@hhs.gov* with ''March 14 Meeting Registration'' in the subject line.

Comments: Time is allocated on the agenda to hear public comments but due to the teleconference format, all members of the public wishing to make comments must send an email to *napa@hhs.gov* indicating a desire to make a public comment no later than Friday, March 9. Public comments will be limited to no more than 3 minutes per speaker. In lieu of oral comments, formal written comments may be submitted for the record to Helen

Lamont, OASPE, 200 Independence Avenue SW., Room 424E, Washington, DC 20201. Comments may also be sent to *napa@hhs.gov.* Those submitting written comments should identify themselves and any relevant organizational affiliations.

FOR FURTHER INFORMATION CONTACT: Helen Lamont (202) 690–7996, *helen.lamont@hhs.gov.*

SUPPLEMENTARY INFORMATION: *Topics of the Meeting:* The Advisory Council will discuss the Draft National Plan to Address Alzheimer's Disease.

Procedure and Agenda: This teleconference meeting is open to the public. The chairs of the three subcommittees (Research, Clinical Care, Long-Term Services and Supports) will summarize feedback from their subcommittees on the Draft National Plan to Address Alzheimer's Disease. This feedback will be discussed among the full Advisory Council.

Authority: 42 U.S.C. 11225; Section 2(e)(3) of the National Alzheimer's Project Act. The panel is governed by provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: February 24, 2012.

Sherry Glied,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 2012–5034 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary; Departmental Appeals Board; Statement of Organization, Functions and Delegations of Authority

AGENCY: Office of the Secretary, Departmental Appeals Board, HHS.

ACTION: Notice.

SUMMARY: The Departmental Appeals Board is announcing this reorganization which allows for greater flexibility and better reflects the current work environment and priorities within the organization.

FOR FURTHER INFORMATION CONTACT: Mary Peltzer, 202–565–0169.

This notices amends Part A (Office of the Secretary), Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS) at Chapter AH, Departmental Appeals Board (DAB), as last amended at 60 FR 52403- 52405, dated October 6, 1995, as follows:

I. Under Section AH.10 Organization, add ''DAB'' as a parenthetical after the ''Departmental Appeals Board.'' Under Section AH.10 Organization, Paragraph A, delete ''The Immediate Office of the Departmental Appeals Board,'' and replace with ''The Immediate Office of the Chair''; delete ''(3) The Director of Administration'' in its entirety and renumber the remaining list. Under Section AH.10 Organization, add Paragraph F, The Operations Division and reorganize the preceding paragraphs as follows: Paragraph B, The Appellate Division; Paragraph C, The Civil Remedies Division; Paragraph D, The Medicare Operations Division.

II. Under Section AH.20, Functions, Paragraph A, delete ''Departmental Appeals Board'' and replace with ''Chair'' and, except for references to ''Board Member,'' replace references to the ''Board'' with ''DAB.'' Delete the remaining Paragraphs and replace with the following:

B. The Appellate Division provides attorney support to assist in the Board's administrative review of such cases as: (1) Disallowances of federal grant funds under Titles I, IV, X, XIV, XIX and XX of the Social Security Act; (2) determinations by the Administrative Law Judges in civil remedies cases; (3) disapprovals of state plans and state plan amendments under section 1116(a)(2) of the Social Security Act; (4) disputes involving direct discretionary grants, cost allocation plans and indirect cost rates; (5) challenges to the validity of National Coverage Determinations issued by the Centers for Medicare & Medicaid Services; (6) disputes involving civil rights reviews; and (7) adverse reimbursement determinations under the reinsurance program established by the Patient Protection and Affordable Care Act. The Division is headed by a Director who is a supervisory attorney and manages the Division's resources and advises Board Members. Attorneys in the Division research legal issues, review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to Board Members on the conduct of cases and decisions; and assist at hearings.

C. The Civil Remedies Division provides attorney support to Administrative Law Judges (ALJs) to assist the ALJs in the hearing and disposition of such cases as: (1) Sanctions by the Centers for Medicare & Medicaid Services and the HHS Inspector General against persons and entities associated with participation as a provider in federally funded health care programs or as an employee, contractor, or other fiscal relationship with the Department; (2) contract declinations and other adverse actions by the Indian Health Service; (3) termination of federal funding and other sanctions by the Office for Civil Rights; (4) certain adverse actions involving the Social Security Administration; and (5) civil money penalty matters that the Food and Drug Administration's Center for Tobacco Products brings against retailers for violations of provisions of the Federal Food, Drug, and Cosmetic Act. The Division is headed by a Director who is a supervisory attorney who manages the Division's resources and assigns cases to the ALJs. Attorneys in the Division research legal issues; review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to ALJs on the conduct of cases and decisions; and assist at hearings.

D. The Medicare Operations Division provides attorney support to assist in review of ALJ decisions issued by the Office of Medicare Hearings and Appeals regarding entitlement to Medicare and individual claims for Medicare coverage and payment filed by beneficiaries or health care providers/suppliers sought under title XVIII of the Social Security Act. The Division is headed by a Director who is a supervisory attorney who assigns cases and oversees the Division's operations. Attorneys in the Division research legal issues; review and evaluate case files, briefs and transcripts; assist in pre-hearing proceedings; draft decisions; provide advice and assistance to Administrative Appeals Judges on the conduct of cases and decisions; and assist at hearings.

E. The Alternative Dispute Resolution Division provides Alternative Dispute Resolution (ADR) services in appeals filed with any of the Board's three adjudicative Divisions. The ADR Division also supports the HHS Dispute Resolution Specialist (Chair, Departmental Appeals Board) in carrying out his/her responsibilities for ADR policy and program development under the Administrative Dispute Resolution Act. The ADR Division's services and support include: Mediation of program disputes filed with DAB; organizational ombuds assistance to members of the public and parties to cases; ADR policy guidance to HHS management; regulatory negotiation for HHS program divisions; mediation and organizational intervention in EEO and workplace disputes; oversight of the Sharing Neutrals Program (a mediator exchange for local federal agencies), and training in conflict management techniques. The Division is headed by a Director who is a supervisory attorney

and provides overall substantive and resource management. Professional staff consists of attorneys and dispute resolution specialists who conduct ADR interventions and training.

F. The Operations Division provides paralegal and other professional administrative staff support to each of the DAB's divisions, including administrative assistance with pre-hearing proceedings, preparing certified records for submission to Federal courts, preparing responses to Freedom of Information Act requests, and providing overall clerical support. Other primary functions include: (1) Coordinating contracting and purchasing requirements of the DAB; (2) coordinating travel arrangements; (3) overseeing facilities management; and (4) overseeing office security and safety. The Division is headed by a Director who provides overall resource management.

III. Delegations of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided that they are consistent with this reorganization.

Dated: February 23, 2012.

E.J. Holland, Jr.,

Assistant Secretary for Administration.

[FR Doc. 2012–5027 Filed 3–1–12; 8:45 am]

BILLING CODE 4150–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces fees for vessel sanitation inspections. These inspections are conducted by CDC's Vessel Sanitation Program (VSP). VSP assists the cruise line industry in fulfilling its responsibility for developing and implementing comprehensive sanitation programs to minimize the risk for acute gastroenteritis. Every vessel that has a foreign itinerary and carries 13 or more passengers is subject to twice-yearly inspections and, when necessary, re-inspection.

DATES: These fees are effective March 2, 2012.

FOR FURTHER INFORMATION CONTACT: CAPT Jaret T. Ames, Chief, Vessel Sanitation Program, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway NE., MS–F–59, Atlanta, Georgia 30341–3717, phone: 800–323–2132 or 954–356–6650, email: *vsp@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose and Background

CDC established VSP in the 1970s as a cooperative activity with the cruise ship industry. VSP assists the cruise ship industry to prevent and control the introduction, transmission, and spread of gastrointestinal illnesses on cruise ships. VSP operates under the authority of the Public Health Service Act (42 U.S.C. 264, ''Control of Communicable Diseases''). Regulations under 42 CFR 71.41 (Foreign Quarantine—Requirements Upon Arrival at U.S. Ports: Sanitary Inspection; General Provisions) states that carriers arriving at U.S. Ports from foreign areas are subject to sanitary inspections to determine whether there exists rodent, insect, or other vermin infestations, contaminated food or water, or other sanitary conditions requiring measures for the prevention of the introduction, transmission, or spread of communicable diseases.

The fee schedule for sanitation inspections of passenger cruise ships inspected under VSP was first published in the **Federal Register** on November 24, 1987 (52 FR 45019). CDC began collecting fees on March 1, 1988. This notice announces fees that are effective March 2, 2012.

The following formula is used to determine the fees:

$$\text{Average cost per inspection} = \frac{\text{Total cost of VSP}}{\text{Weighted number of annual inspections}}$$

The average cost per inspection is multiplied by size and cost factors to determine the fee for vessels in each size category. The size and cost factors were established in the proposed fee schedule published in the **Federal Register** on July 17, 1987 (52 FR 27060). The fee schedule was most recently published in the **Federal Register** on November 26, 2008 (73 FR 72053). The current size and cost factors are presented in Appendix A.

Fee

The fee schedule (Appendix A) will be effective March 2, 2012 through September 30, 2012. The fee schedule has not changed since October 1, 2006. If travel expenses continue to increase, the fees may need to be adjusted before September 30, 2012, because travel constitutes a sizable portion of VSP's costs. If a fee adjustment is necessary, a notice will be published in the **Federal Register** 30 days before the effective date.

Applicability

The fees will apply to all passenger cruise vessels for which inspections are conducted as part of CDC's VSP.

Dated: February 22, 2012.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

Appendix A

SIZE/COST FACTOR

Vessel size	GRT [1]	Approximate cost per GRT (in U.S. dollars)
Extra Small	<3,001	0.25
Small	3,001–15,000	0.50
Medium	15,001–30,000	1.00
Large	30,001–60,000	1.50
Extra Large	60,000–120,000	2.00
Mega	>120,001	3.00

FEE SCHEDULE

Vessel size	GRT [1]	Fee (in U.S. dollars)
Extra Small	<3,000	1,300
Small	3,001–15,000	2,600
Medium	15,001–30,000	5,200
Large	30,001–60,000	7,800
Extra Large	60,001–120,000	10,400
Mega	>120,001	15,600

[1] Gross register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.
Inspections and re-inspections involve the same procedures, require the same amount of time, and are therefore charged at the same rates.

[FR Doc. 2012–5077 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Detecting Emerging Vector-Borne Zoonotic Pathogens in Indonesia, Funding Opportunity Announcement (FOA) CK12–002, initial review.

Correction: The notice was published in the **Federal Register** on February 12, 2012, Volume 77, Number 22, Page 5257. The time and date should read as follows:

Time and Date: 1 p.m.–5 p.m., March 29, 2012 (Closed).

Contact Person For More Information: Gregory Anderson, M.P.H., M.S., Scientific Review Officer, CDC, 1600 Clifton Road NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 718–8833.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 23, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–5073 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Reducing Health Disparities Among People With Intellectual Disabilities, FOA DD12–003, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., April 25, 2012 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Reducing Health Disparities among People with Intellectual Disabilities, FOA DD12–003, initial review.''

Contact Person for More Information: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 23, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–5089 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Development and Evaluation of a Clinic-Based Screening and Brief Intervention for Changing Behaviors Related to Cytomegalovirus Transmission in Pregnant Women, FOA DD12–005, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., April 10, 2012 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Development and Evaluation of a Clinic-Based Screening and Brief Intervention for Changing Behaviors Related to Cytomegalovirus Transmission in Pregnant Women, FOA DD12–005, initial review.''

For Further Information Contact: M. Chris Langub, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F–46, Atlanta, Georgia 30341, Telephone: (770) 488–3585.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 23, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–5085 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Green Housing Study: Follow-up Measurements of Housing Factors and Respiratory Health of Children Located in Cincinnati and Boston (U01), Funding Opportunity Announcement (FOA) EH12–001, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry (CDC/ATSDR) announces the aforementioned meeting:

Time and Date: 11 a.m.–1 p.m., Eastern Standard Time, March 22, 2012 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Green Housing Study: Follow-up Measurements of Housing Factors and Respiratory Health of Children Located in Cincinnati and Boston (U01), FOA EH12–001.''

Contact Person for More Information: J. Felix Rogers, Ph.D., M.P.H., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F63, Atlanta, Georgia 30341, Telephone: (770) 488–4334.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: February 23, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–5084 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Announcement of Requirements and Registration for Surgeon General's (SG) Youth Video Contest

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

Award Approving Official: Thomas R. Frieden, MD, MPH, Director, Centers for Disease Control and Prevention, and Administrator, Agency for Toxic Substances and Disease Registry.

ACTION: Notice.

SUMMARY: The Center for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) announces the launch of the Surgeon General's (SG) Youth Video Contest. This contest is sponsored by CDC in conjunction with the Office of the Surgeon General, HHS. This contest has been designed to engage youth and young adults in developing original videos in conjunction with the launch of the *2012 Surgeon General's Report, ''Preventing Tobacco Use among Youth and Young Adults.''* Specifically, the contest will engage youth and young people in considering how tobacco use impacts their health, how the tobacco industry reaches youth through marketing, and other tobacco-related influences.

DATES: The contest will be launched on March 8, 2012 during a news conference. Other important contest-related dates:

- Video Submission Begins: 12 p.m., EDT, March 8, 2012
- Submission Period Ends: 11:59 p.m., EDT, April 20, 2012
- Judging Process for Initial Entries Begins (internal): 12:01 a.m., EDT, April 21, 2012
- Judging Process for Initial Entries Ends (internal): 12 p.m., EDT, May 7, 2012
- Judging Process/Voting for Finalists Begins (external): 12 p.m., EDT, May 8, 2012
- Judging Process/Voting for Finalists Ends: 11:59 p.m., EDT, May 24, 2012
- Winners Notified: Week of May 28, 2012

FOR FURTHER INFORMATION CONTACT: H. Amy Rowland, BA, MSc., National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, MS–K50, Atlanta, Georgia 30341–3724; phone: (770) 488–5709; email: *SGReport@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Subject of SG Video Competition: Entrants are asked to submit short videos (up to 2 minutes in length) using one or more key SG Report findings and use or include the official SGR findings Web site.

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this contest, an individual or entity shall have complied with all the requirements under this section.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

The Contest Has Two (2), Age-Based Categories and Two (2) Language Categories, English and Spanish

- The first age-based category is open to U.S. middle and high school students aged 14–18 at the time of entry. If the Contestant/Submitter is under eighteen (18) years of age at the time of entry, the Contestant/Submitter must have permission from a parent or guardian. Contestants/Submitters must also have all the necessary permissions for individuals heard and/or seen on the submitted video. The permission of the parent or guardian of each person under the age of 18 who is seen or heard in

the video is also required. All individual submissions in the 18 and under category must be U.S. citizens or permanent residents to be eligible.

- The second, aged-based category is for young adults aged 18–24; these individuals must be citizens or permanent residents of the United States.
- Both age-based categories will be allowed to submit individual and group or team entries to ensure access to resources and technology that may be available to them at the institutional (i.e., schools) level, in addition to any at home.

English and Spanish language submissions in both age-based categories will be judged by separate panels and will be considered eligible for contest awards if they meet the aforementioned criteria.

A Federal entity or Federal employee acting within the scope of his or her employment is not eligible to participate. Federal employees seeking to participate in this contest outside the scope of their employment should consult their ethics official prior to developing their submission. Employees of the CDC and the judges or any other company or individual involved in the design, production, execution, or distribution of the Contest and their immediate family (spouse, parents and step-parents, siblings and step-siblings, and children and step-children) and household members (people who share the same residence at least three months out of the year) are not eligible to participate.

Regarding Liability and Indemnification:

By participating in this competition, Contestants agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage or loss of property, revenue or profits, whether direct, indirect, or consequential, arising from participation in this contest, whether the injury, death, damage, or loss arises through negligence or otherwise. By participating in this competition, Contestants agree to indemnify the Federal Government against third party claims for damages arising from or related to contest activities.

Regarding Insurances:

Contestants must obtain liability insurance or demonstrate financial responsibility in the amount of $0.00 for claims by: (1) A third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered contestant's insurance policy and registered contestants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and (2) the Federal Government for damage or loss to Government property resulting from such an activity. Contestants who are a group must obtain insurance or demonstrate financial responsibility for all members of the group.

Regarding Copyright/Intellectual Property:

Contestant(s) warrants that he or she is the sole author and owner of the contest Submission, and that the contest Submission completely originates with the Contestant, that it does not infringe upon any copyright or any other rights of any third party of which Contestant(s) is aware, and is free of malware, e.g., Contestant cannot submit material that he or she did not create and is not the owner of, the Contestant cannot take material from any other source.

Submission Rights:

By participating in this contest, each Contestant grants the CDC an irrevocable, paid-up, royalty-free nonexclusive worldwide license to post, link to, share, and display public the video on the Web, for the purpose of the Contest, during the duration of the Contest, and for a period of one year following announcement of the winners. Submissions will be made available free of charge to the public by CDC including, but not limited to, on CDC/OSH's YouTube playlist throughout the contest. CDC also reserves the right to make all submitted videos available for partners and local access stations to feature winners or local contestants. Contestants will retain intellectual property rights of their Submissions.

Registration Process for Participants:

Interested persons should read the Official Rules posted on Challenge.gov. Contestants will submit their content through the *Challenge.gov* Web site. All submissions will be reviewed by CDC to confirm eligibility based on the contest rules prior to being transferred to CDC's YouTube channel for public voting. Registration is free and can be completed anytime during the Initial Submission Period, March 8 to April 20, 2012.

Amount of the Prize:

There will be a $1,000 grand prize and three $500.00 runner-up prizes, for a total of $10,000 divided evenly between the middle/high school contest (English and Spanish categories) and the college contest (English and Spanish categories), a total of four prizes for each age-based group.

Payment of the Prize:

Payment of prize money will be paid directly to winners by ICF Macro, Inc., an ICF International company under contract to and on behalf of HHS. Payment will be made by check and may be subject to Federal income taxes. ICF Macro will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected:

In conjunction with the launch of the new SG Report, the Surgeon General will be releasing a Consumer Piece in English and in Spanish that will summarize the key messages and recommendations from the full report. English and Spanish language contestants in both age categories will be encouraged to use the Consumer Piece as a guide for writing key health messages into their videos. *Submissions will be judged on the best use and depiction of key messages and recommendations from the English and Spanish language Consumer Pieces.* Only submissions in English and Spanish in both age-categories will be eligible for the judging.

Additional Information:

The Video must be 120 seconds or less in length and must be submitted through *www.challenge.gov.* The Video must not have visual or verbal mention of any Web sites other than CDC's Smoking & Tobacco Use Web site (*www.cdc.gov/tobacco*) or SG Web site (*www.surgeongeneral.gov*).

Videos should not include endorsements of private products, services, or enterprises. Videos containing profane language, violence or weapons, sexually explicit content, or personal attacks will not be considered. Videos containing material that is obscene, offensive, or slanderous will not be considered. Videos containing material that promotes bigotry, racism, or harm against any group or individual or promotes discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age will not be considered.

Compliance With Rules and Contacting Contest Winners:

Finalists and the Contest Winners must comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email, telephone, or mail after the date of the judging. Awards may be subject to Federal income taxes, and the Department of Health and Human Services will comply

with the Internal Revenue Service withholding and reporting requirements, where applicable.

Privacy:

If Contestants choose to provide the CDC with personal information by registering or filling out the submission form through the Challenge.gov Web site, that information is used to respond to Contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the Contest. Information is not collected for commercial marketing. Winners are permitted to cite that they won this contest.

General Conditions:

The CDC reserves the right to cancel, suspend, and/or modify the Contest, or any part of it, for any reason, at CDC's sole discretion.

Participation in This Contest Constitutes a Contestant's Full and Unconditional Agreement To Abide by the Contest's Official Rules Found at www.Challenge.gov.

Authority: 15 U.S.C. 3719.

Dated: February 23, 2012.

Tanja Popovic,

Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2012–5080 Filed 3–1–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10241]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Survey of Retail Prices: Payment and Utilization Rates, and Performance Rankings; *Use:* CMS will develop a National Average Drug Acquisition Cost (NADAC) for States to consider when developing reimbursement methodology. The NADAC is a new pricing benchmark that will be based on the national average costs that pharmacies pay to acquire Medicaid covered outpatient drugs. It is intended to provide States with a more accurate reference price to base reimbursement for prescription drugs and will be based on drug acquisition costs collected directly from pharmacies through a nationwide survey process. This survey will be conducted on a monthly basis to ensure that the NADAC reference file remains current and up-to-date. A NADAC Survey Request for Information has been developed to send to random pharmacies for voluntary completion. CMS proposes to add the survey to an existing collection, ''Annual State Report and Annual State Performance Rankings.'' The requirements and burden associated with the annual report/rankings are unaffected by this proposed action; *Form Number:* CMS–10241 (OCN 0938–1041); *Frequency:* Biennially, Once; *Affected Public:* Private Sector; Business or other for-profits; *Number of Respondents:* 30,000; *Total Annual Responses:* 30,000; *Total Annual Hours:* 15,000. (For policy questions regarding this collection contact Lisa Ferrandi at 410–786–5445. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on April 2, 2012. OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, Email: *OIRA_submission@omb.eop.gov.*

Dated: February 23, 2012.

Martique Jones,

Director, Regulations Development Group, Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–5020 Filed 3–1–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10424]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Cooperative Agreement to Support Establishment of the Affordable Care Act's Health Insurance Exchanges; *Use:* All States (including the 50 States, consortia of States, and the District of Columbia herein referred to as States) that received a State Planning and Establishment Grant for Affordable Care Act's Exchanges are eligible for the Cooperative Agreement to Support Establishment of the Affordable Care Act's Health Insurance Exchanges. The State of Alaska did not apply for either the original Planning grant made available in September 2010, nor the second Planning grant made available in January 2011 exclusively to States that did not apply for the first. Because Alaska did not receive funding under

Section 1311 for planning and establishment of an Exchange within one year of the enactment of the Affordable Care Act, by Statute, it will not be eligible for Section 1311 Exchange planning and establishment money in the future. Section 1311 of the Affordable Care Act provides for grants to States for the planning and establishment of these Exchanges. Given the innovative nature of Exchanges and the statutorily prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, federal requirements, and goals of the statute.

In order to provide appropriate and timely guidance and technical assistance, the Secretary must have access to timely, periodic information regarding State progress. Consequently, the information collection associated with these grants is essential to facilitating reasonable and appropriate federal monitoring of funds, providing statutorily mandated assistance to States to implement Exchanges in accordance with Federal requirements, and to ensure that States have all necessary information required to proceed, such that retrospective corrective action can be minimized.

There are two levels of awards for States to apply for the Establishment grants. Grants are open to States that received federal funding for Exchange Planning activities, awardees of the Cooperative Agreements to Support Innovative Exchange Information Technology Systems, and awardees under the Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges. Level One Establishment cooperative agreements provide one year of funding to States that are ready to initiate establishment activities having made progress under their Exchange Planning grant. Level Two Establishment cooperative agreements are designed to provide funding to applicants for the establishment of a State-based Exchange and that can demonstrate specific eligibility criteria. Level One Establishment grantees may apply for additional funding under Level Two Establishment grants once they have achieved the benchmarks identified in the Level Two Establishment review criteria.

HHS anticipates releasing this funding opportunity on June 15, 2012. There will be four opportunities for applicants to apply for funding. HHS anticipates Level One Establishment and Level Two Establishment applications will be due: August 1, 2012; November 1, 2012; February 1, 2013; May 1, 2013; August 1, 2013; November 1, 2013; February 3, 2014; May 1, 2014; August 1, 2014; and November 3, 2014. The Period of Performance for Level One Establishment grants is up to one year after date of award. The Period of Performance for Level Two Establishment grants is up to three years after date of award. *Form Number:* CMS–10424 (OCN: 0938–NEW); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Governments. *Number of Respondents:* 50. *Number of Responses:* 325. *Total Annual Hours:* 49,175. (For policy questions regarding this collection contact Katherine Harkins at 301–492–4445. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by May 1, 2012:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 27, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–5011 Filed 2–27–12; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–6043–N]

Medicare Program; Solicitation of Independent Accrediting Organizations To Participate in the Advanced Diagnostic Imaging Supplier Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice invites independent accreditation organizations who have not previously submitted applications to participate in the advanced diagnostic imaging supplier accreditation program as a designated accreditation organization, for the purpose of accrediting suppliers furnishing the technical component (TC) of advanced diagnostic imaging services. It also sets forth the application guidelines for approval of organizations wishing to accredit suppliers furnishing the TC of advanced diagnostic imaging services.

DATES: Applications will be considered if received at the address provided in the **ADDRESSES** section of this notice, no later than 5 p.m. daylight savings time (d.s.t.) on May 1, 2012.

ADDRESSES: Applications should be sent to the following: Attention: Sandra Bastinelli, Mail stop AR–18–50, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Sandra Bastinelli, (410) 786–3630.

SUPPLEMENTARY INFORMATION:

I. Background

Section 135(a) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) added section 1834(e) to the Social Security Act (Act). Section 1834(e) of the Act requires the Secretary to designate organizations to accredit suppliers furnishing the technical component (TC) of advanced diagnostic imaging services (section 1834(e)(2)(B) of the Act), and to establish procedures to ensure that the criteria used by such accrediting organizations to accredit TC suppliers are specific to each imaging modality and meet the requirements of the statute (section 1834(e)(3)). Section 1834 (e)(1)(B) of the Act defines advanced diagnostic imaging services as—

(i) Diagnostic magnetic resonance imaging, computed tomography, and nuclear medicine—including positron emission tomography, and

(ii) Such other diagnostic imaging services, including services described in section 1848(b)(4)(B) (excluding x-ray, ultrasound, and fluoroscopy), as specified by the Secretary in consultation with physician specialty organizations and other stakeholders.

Section 1848(b)(4)(B) of the Act defines imaging services as ''imaging and computer-assisted imaging services, including x-ray, ultrasound (including echocardiography), nuclear medicine (including positron emission tomography), magnetic resonance imaging, computed tomography, and fluoroscopy, but excluding diagnostic and screening mammography.'' Suppliers of the TC of advanced diagnostic imaging services for which payment is made under the fee schedule established under section 1848(b) of the Act (that is, the Physician Fee Schedule (FFS)), must become accredited by an accreditation organization designated by the Secretary (for the TC of the defined advanced diagnostic imaging services) on or after January 1, 2012 in order to receive payment from Medicare.

We implemented these statutory provisions via the CY 2010 PFS final rule which appeared in the November 25, 2009 **Federal Register** (''Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2010'' (74 FR 61738). This final rule set out criteria for designating organizations to accredit suppliers furnishing the TC of advanced diagnostic imaging services, as specified in section 1834(e) of the Act. In addition, 45 CFR 414.68(h) specifies our procedures for ensuring that accreditation organizations correctly apply the criteria to ensure that suppliers are meeting minimum standards for each imaging modality.

In the same issue of the **Federal Register**, we published a notice soliciting applicants for participation in the advanced diagnostic imaging supplier accreditation program as designated accreditation organizations (''Medicare Program; Solicitation of Independent Accrediting Organizations To Participate in the Advanced Diagnostic Imaging Supplier Accreditation Program'', (74 FR 62189), November 25, 2009). As a result of this solicitation, we published a second **Federal Register** notice (Medicare Program; Approval of Independent Accrediting Organizations To Participate in the Advanced Diagnostic Imaging Supplier Accreditation Program'' (January 26, 2010 (75 FR 4088)) announcing approval of three national accreditation organizations to accredit suppliers seeking to furnish the TC of advanced diagnostic imaging services under the Medicare program: the American College of Radiology (ACR); the Intersocietal Accreditation Commission (IAC); and The Joint Commission (TJC).

II. Provisions of the Notice

This notice solicits additional applications from accreditation organizations with the ability to accredit the TC of at least one of the categories of advanced diagnostic imaging services as defined at 42 CFR 414.68(b).

A. Eligible Organizations

Any accreditation organization that can show evidence of the ability to accredit at least one of the categories of advanced diagnostic imaging services as defined in sections 1834(e)(1)(B) and 1848(b)(4)(B) of the Act is eligible to apply for approval as a designated imaging services accreditation organization. As previously noted, this notice solicits applications from accrediting organizations that have not previously applied; the three existing designated accreditation organizations and current applicants are not required to reapply.

B. Application Requirements

To be considered for approval as a designated accreditation organization for Medicare requirements under 42 CFR 414.68 and as defined by sections 1834(e)(1)(B) and 1848 (b)(4)(B) of the Act an accreditation organization must furnish us with the following, as specified in 42 CFR 414.68(c):

- A detailed description of how the organization's accreditation criteria satisfy the statutory standards at section 1834(e)(3)of the Act, including—

++ Qualifications of medical personnel who are not physicians and who furnish the TC of advanced diagnostic imaging services.

++ Qualifications and responsibilities of medical directors and supervising physicians (who may be the same person), such as their training in advanced diagnostic imaging services in a residency program, expertise obtained through experience, or continuing medical education courses.

++ Procedures to ensure the reliability, clarity, and accuracy of the technical quality of diagnostic images produced by the supplier, including a thorough evaluation of equipment performance and safety;

++ Procedures to ensure the safety of persons who furnish the TC of advanced diagnostic imaging services and individuals to whom such services are furnished;

++ Procedures to assist the beneficiary in obtaining the beneficiary's imaging record on request; and

++ Procedure to notify the accreditation organization of any changes to the modalities subsequent to the organizations' accreditation decision.

- An agreement to conform accreditation requirements to any changes in Medicare statutory requirements authorized by section 1834(e) of the Act. The accreditation organization must maintain or adopt standards that are equal to, or more stringent than, those of Medicare.
- Information that demonstrates the accreditation organization's knowledge and experience in the advanced diagnostic imaging arena.
- The organization's proposed fees for accreditation for each modality in which the organization intends to offer accreditation, including any plans for reducing the burden and cost of accreditation to small and rural suppliers.
- Any specific documentation requirements and attestations requested by CMS as a condition of designation under this part.
- A detailed description of the organization's survey process, including the following:

++ Type and frequency of the surveys performed.

++ The ability of the organization to conduct timely reviews of accreditation applications, to include the organizations national capacity.

++ Description of the organization's audit procedures, including random site visits, site audits, or other strategies for ensuring suppliers maintain compliance for the duration of accreditation.

++ Procedures for performing unannounced site surveys.

++ Copies of the organizations survey forms.

++ A description of the accreditation survey review process and the accreditation status decision-making process, including the process for addressing deficiencies identified what the accreditation requirements, and the procedures used to monitor the correction of deficiencies found during an accreditation survey.

++ Procedures for coordinating surveys with another accrediting organization if the organization does not accredit all products the supplier provides.

++ Detailed information about the individuals who perform evaluations for the accreditation organization,

including all of the following information:

—The number of professional and technical staff that are available for surveys.

—The education, employment, and experience requirements surveyors must meet.

—The content and length of the orientation program.

++ The frequency and types of in-service training provided to survey personnel.

++ The evaluation systems used to monitor the performance of individual surveyors and survey teams.

++ The policies and procedures regarding an individual's participation in the survey or accreditation decision process of any organization with which the individual is professionally or financially affiliated.

++ The policies and procedures used when an organization has a dispute regarding survey findings or an adverse decision.

• Detailed information about the size and composition of survey teams for each category of advanced medical imaging service supplier accredited.

• A description of the organization's data management and analysis system for its surveys and accreditation decisions, including the kinds of reports, tables, and other displays generated by that system.

• The organization's procedures for responding to and for the investigation of complaints against accredited facilities, including policies and procedures regarding coordination of these activities with appropriate licensing bodies and CMS.

• The organization's policies and procedures for the withholding or removal accreditation status for facilities that fail to meet the accreditation organization's standards or requirement, and other actions taken by the organization in response to noncompliance with its standards and requirements. These policies and procedures must include notifying CMS of Medicare facilities that fail to meet the requirements of the accrediting organization.

• A list of all currently accredited suppliers, the type and category of accreditation currently held by each supplier, and the expiration date of each supplier's current accreditation.

• A written presentation that demonstrates the organization's ability to furnish CMS with electronic data in ASCII comparable code.

• A resource analysis that demonstrates that the organization's staffing, funding, and other resources are adequate to perform the required surveys and related activities.

• A statement acknowledging that, as a condition for approval of designation, the organization agrees to:

++ Notify CMS, in writing, of any Medicare supplier that had its accreditation revoked, withdrawn, revised, or any other remedial or adverse action taken against it by the accreditation organization within 30 calendar days of any such action taken.

++ Notify all accredited supplier within 10 calendar days of the organizations' removal for the list of designated accreditation organizations.

++ Notify CMS, in writing, at least 30 calendar days in advance of the effective date of any significant proposed changes in its accreditation requirements.

++ Permit its surveyors to serve as witnesses if CMS takes an adverse action based on accreditation findings.

++ Notify CMS, in writing (electronically or hard copy), within 2 business days of a deficiency identified in any accreditation supplier from any source where the deficiency poses an immediate jeopardy to the supplier's beneficiaries or a hazard to the general public.

++ Provide, on an annual basis, summary data specified by CMS that relates to the past year's accreditations and trends.

++ Attest that the organization will not perform any accreditation surveys of Medicare-participating suppliers with which it has a financial relationship in which it has an interest.

++ Conform accreditation requirements to changes in Medicare requirements.

++ If CMS withdraws an accreditation organization's approved status, work collaboratively with CMS to direct suppliers to the remaining accreditation organizations within a reasonable period of time.

C. Application Deadline and Notification of Receipt

The deadline for the submission of applications is the date specified in the **DATES** section of this notice. We will acknowledge receipt of applications via email.

D. Evaluation of Application

A professional and medical panel will evaluate all applications from accreditation organizations seeking designation under section 1834(e) of the Act.

If we determine that additional information is necessary to make a determination for approval or denial of the accreditation organization's application for designation, we will notify the organization and afford it an opportunity to provide the additional information. We may also visit the organization's offices to verify representations made by the organization in its application, including, but not limited to, reviewing documents and interviewing the organization's staff.

E. Approval of Application

The accreditation organization will receive a formal notice via mail from CMS approving or denying the request for consideration. If denied, the notice will state the basis for denial, and include information about seeking reconsideration and reapplication procedures. An accreditation organization may withdraw its application for designation under section 1834(e) of the Act at any time prior to the formal notice of approval or denial is received. An accreditation organization notified of a denial of request for designation may request reconsideration in accordance with 42 CFR 414.68(i). Any accreditation organization whose request for approval of designation has been denied may also resubmit the application to us if the organization—

• Revises its accreditation program to address the rationale for denial of its previous request;

• Provides reasonable assurance that its accredited companies meet applicable Medicare requirements; and

• Resubmits the application in its entirety.

An organization may not submit a new application for the same type of modality as that initially applied for, until any reconsideration proceedings under § 414.68(i) with respect to the previous application are completed.

We will publish a **Federal Register** document notifying the public of the approved applicants.

F. Term of Approval of Designation of Accreditation Organizations

Under section 1834(e)(2)(C)(i) of the Act, the Secretary shall review the list of accreditation organizations designated, taking into account the performance of such organizations, and may, by regulation, modify the list of accreditation organizations designated. Our regulations at § 414.68(h) set out the specific criteria and procedures for continuing CMS oversight of approved accreditation organizations, and for withdrawing approval of a CMS approved accreditation organization. There is no stated period of performance related to this accreditation designation.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We detailed the burden associated with the submission of advanced diagnostic imaging provider accreditation applications from independent accrediting bodies in the CY 2010 PFS final rule that published November 25, 2009 (74 FR 61738). We are summarizing the discussion of the information collection requirements in this notice.

Section 414.68(b) contains the application and reapplication procedures for accreditation organizations. Specifically, an independent accreditation organization applying for approval or reapproval of authority to survey suppliers for purposes of accrediting suppliers furnishing the technical component (TC) of advanced diagnostic imaging services must furnish CMS with all of the information listed in proposed § 414.68(b)(1) through (14). The requirements include but are not limited to reporting, notification, documentation, and survey requirements.

The burden associated with the collection requirements in § 414.68(b) is the time and effort necessary to develop, compile and submit the information listed in § 414.68(b)(1) through (14). We estimate that it will take an entity 80 hours to submit a complete application for approval or reapproval authority to become an accrediting organization approved by CMS. Three entities complied with these requirements during the initial round of submissions. Currently, we are only aware of one other entity that is eligible to submit an application. In addition, the three currently approved accrediting organizations are not required to resubmit applications. Furthermore, we are not able to accurately quantify the total number of entities that are eligible to comply with these requirements beyond those previously identified. While these requirements are subject to the PRA, we believe the associated burden is exempt under 5 CFR 1320.3(c)(4). This collection will impact less than 10 entities in a 12-month period. We cannot estimate the number of expected submissions from entities seeking to become accrediting organizations. We will review each submission on a case-by-case basis. If we determine that the number of submissions may exceed the threshold of 10 or more persons in a 12-month period, as defined in 5 CFR 1320.3(c)(4), we will develop an information collection request as part of the formal OMB approval process.

Section 414.68(c) contains the information collection requirements pertaining to CMS approved accrediting organizations. An accrediting organization approved by CMS must undertake all of the activities listed in § 414.68(c)(1) through (6). The burden associated with the collection requirements in § 414.68(c) is the time and effort necessary to develop, compile and submit the information listed in § 414.68(c)(1) through (6). We estimate that it will take the applicant entity 80 hours to submit the required information on an ongoing basis. As stated earlier, there are 3 currently approved accrediting organizations that have already complied with this requirement. In addition, we are only aware of one other entity that is eligible to submit an application; we are not able to accurately quantify the total number of entities that are eligible to comply with these requirements beyond those previously identified. While these requirements are subject to the PRA, we believe the associated burden is exempt under 5 CFR 1320.3(c)(4). This collection will impact less than 10 entities in a 12-month period. Because we cannot estimate the number of expected submissions from new CMS approved accrediting organizations, we will review each submission on a case-by-case basis. If we determine that the number of submissions may exceed the threshold of 10 or more persons in a 12-month period, as defined in 5 CFR 1320.3(c)(4), we will develop an information collection request as part of the formal OMB approval process.

Section 414.68(d)(1) states that CMS or its contractor may conduct an audit of an accredited supplier, examine the results of a CMS approved accreditation organization's survey of a supplier, or observe a CMS approved accreditation organization's onsite survey of a supplier, in order to validate the CMS approved accreditation organizations accreditation process. The burden associated with this requirement is the time and effort necessary for an accrediting organization to comply with the components of the validation audit. While this requirement is subject to the PRA, we believe the associated burden is exempt as stated in 5 CFR 1320.3(h)(6). The burden associated with a request for facts addressed to a single person, as defined in 5 CFR 1320.3(j), is not subject to the PRA.

As stated in § 414.68(e)(1), an accreditation organization dissatisfied with a determination that its accreditation requirements do not provide or do not continue to provide reasonable assurance that the suppliers accredited by the organization meet the applicable quality standards is entitled to a reconsideration. We reconsider any determination to deny, remove or not to renew the approval of deeming authority to an accreditation organization if the accrediting organization files a written request for reconsideration by its authorized officials or through its legal representative. The written request must be filed within 30 calendar days of the receipt of our notice of an adverse determination or nonrenewal. In addition, the request must also specify the findings or issues with which the accreditation organization disagrees and the reasons for the disagreement.

The burden associated with this requirement is the time and effort necessary for an accrediting organization to file, develop and file written request for reconsideration. While this requirement is subject to the PRA, the associated burden is exempt under 5 CFR 1320.4. The information in question is being collected as a result of an administrative action; accrediting organizations are submitting requests for reconsideration after receiving a notice of an adverse determination.

Authority: Section 1834(e) of the Act.

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 24, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2012–5013 Filed 3–1–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0108]

Draft Guidance for Industry on Limiting the Use of Certain Phthalates as Excipients in Center for Drug Evaluation and Research-Regulated 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 ''Limiting the Use of Certain Phthalates as Excipients in CDER-Regulated Products.'' This draft guidance provides the pharmaceutical industry with the Center for Drug Evaluation and Research's (CDER's) current thinking on the potential human health risks associated with exposure to dibutyl phthalate (DBP) and di(2-ethylhexyl) phthalate (DEHP). In particular, the draft guidance recommends that the pharmaceutical industry avoid the use of these two specific phthalates as excipients in CDER-regulated drug and biologic products, including prescription and nonprescription products.

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 May 31, 2012.

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: Laurie Muldowney, Center for Drug Evaluation and Research (HFD–003), Food and Drug Administration, Bldg. 51, Rm. 4154, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–1571.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Limiting the Use of Certain Phthalates as Excipients in CDER–Regulated Products.'' This draft guidance provides the pharmaceutical industry with CDER's current thinking on the potential human health risks associated with exposure to DBP and DEHP. In particular, the draft guidance recommends that the pharmaceutical industry avoid the use of these two specific phthalates as excipients in CDER-regulated drug and biologic products, including prescription and nonprescription products. The recommendations in this guidance do not address the use of DBP or DEHP in other types of FDA-regulated products or exposure to DBP or DEHP due to the presence of any of these compounds as an impurity—including as a result of leaching from packaging materials.

Phthalate esters (phthalates) are synthetic chemicals with a broad spectrum of uses. Phthalates are found in certain pharmaceutical formulations, primarily as a plasticizer in enteric-coatings of solid oral drug products to maintain flexibility, but they also may be used for different functions in other dosage forms. Phthalates also are found in other products for uses such as softeners of plastics, solvents in perfumes, and additives to nail polish, as well as in lubricants and insect repellents.

Phthalates have been studied extensively in animals, and DBP and DEHP have been shown to be developmental and reproductive toxicants in laboratory animals. While the data in humans are less clear, epidemiological studies suggest that certain phthalates may affect reproductive and developmental outcomes. Other studies have confirmed the presence of DBP and DEHP in amniotic fluid, breast milk, urine, and serum.

Data from the National Health and Nutrition Examination Survey (NHANES) indicate widespread exposure of the general population to phthalates. Humans are exposed to phthalates by multiple routes, including inhalation, ingestion, and to a lesser degree absorption through the skin. Several observational human studies have reported an association between exposure to certain phthalates and adverse developmental and reproductive effects. The ubiquitous presence of phthalates in the environment and the potential consequences of human exposure to phthalates have raised concerns, particularly in vulnerable populations such as pregnant women and infants.

Although the currently available human data are limited, the Agency has determined that there is evidence that exposure to DBP and DEHP from pharmaceuticals presents a potential risk of developmental and reproductive toxicity. While it is recognized that drug products may carry inherent risks, DBP and DEHP are used as excipients, and safer alternatives are available. Therefore, the Agency recommends avoiding the use of DBP and DEHP as excipients in CDER-regulated drug and biologic products.

These recommendations apply to CDER-regulated drug and biologic products that are under development (i.e., investigational new drugs), nonapplication products (e.g., over the counter monograph products), and both marketed approved products and those currently under review for marketing consideration (i.e., new drug applications, abbreviated new drug applications, and biologics license applications).

There are alternatives to DBP and DEHP for use as excipients in CDER-regulated products. Manufacturers with products that contain DBP or DEHP should consider alternative excipients and determine if the alternative excipient they plan to use has been used in similar CDER-approved products and at what level.

The Inactive Ingredients Database provides information on excipients present in FDA-approved drug products, and this information can be helpful in developing drug products. As manufacturers reformulate their products, the listings for DBP and DEHP will be removed from the Inactive Ingredients Database.

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 limiting the use of certain phthalates as excipients in CDER-regulated 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. 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. 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.

III. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information 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) and have been approved under OMB Control Numbers 0910–0014 and 0910–0001.

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: February 28, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–5069 Filed 3–1–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0618]

Draft Guidances Relating to the Development of Biosimilar Products; Public Hearing; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a 1-day public hearing to obtain input on recently issued draft guidances relating to the development of biosimilar products (draft guidances). These draft guidances were issued by FDA as part of the implementation of the Biologics Price Competition and Innovation Act of 2009 (the BPCI Act). The BPCI Act establishes an abbreviated licensure pathway for biological products that are demonstrated to be biosimilar to, or interchangeable with, a reference product. FDA will consider the information it obtains from the public hearing in the finalization of these guidances. In addition, FDA is soliciting public input regarding topics for future policies regarding biosimilars.

DATES: The public hearing will be held on May 11, 2012, from 8:30 a.m. to 5 p.m. Individuals who wish to present at the public hearing must register by April 11, 2012. Section V of this document provides attendance and registration information. Electronic or written comments will be accepted after the public hearing until May 1, 2012.

ADDRESSES: The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, Rm. 1503, Silver Spring, MD 20993.

Submit electronic comments 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. Identify comments with the corresponding docket number found in brackets in the heading of this document.

Transcripts of the public hearing will be available for review at the Division of Dockets Management and on the Internet at *http://www.regulations.gov* approximately 30 days after the public hearing (see section VIII of this document).

A live Web cast of this public hearing may be seen at *http://www.fda.gov/Drugs/NewsEvents/ucm265628.htm* on the day of the public hearing. A video record of the public hearing will be available at the same Web address for 1 year.

FOR FURTHER INFORMATION CONTACT: Sandra J. Benton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6340, Silver Spring, MD 20993, 301–796–1042, Fax: 301–847–3529, email: *biosimilarspublicmtg@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148). The Affordable Care Act contains the BPCI Act that amends the Public Health Service Act (the PHS Act) and other statutes to create an abbreviated licensure pathway for biological products shown to be biosimilar to, or interchangeable with, a reference product (see sections 7001 through 7003 of the Affordable Care Act).

The implementation of an abbreviated licensure pathway for biological products can present challenges given the scientific and technical complexities that may be associated with the larger and often more complex structure of biological products, as well as the processes by which such products are manufactured. Most biological products are produced in a living system such as a microorganism, or plant or animal cells, whereas small molecule drugs are typically manufactured through chemical synthesis.

Among other things, section 351(k) of the PHS Act (42 U.S.C. 262(k)), added by the BPCI Act, sets forth the requirements for an application for a proposed biosimilar biological product. Section 351(k) defines biosimilarity to mean ''that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components'' and that ''there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity, and potency of the product.'' A 351(k) biosimilar application must contain, among other things, information demonstrating that the biological product is biosimilar to a reference product based upon data derived from analytical studies, animal studies and a clinical study or studies, unless FDA determines that an element described here is unnecessary in a 351(k) application.

II. Previous Public Hearing on Biosimilar Pathway

As part of our commitment to public outreach, FDA held a 2-day public hearing on the ''Approval Pathway for Biosimilar and Interchangeable Biological Products'' on November 2 and 3, 2010 (75 FR 61497, October 5, 2010) (November 2010 public hearing). The purpose of that public hearing was to seek comments on a number of issues relating to the implementation of the BPCI Act. Over 40 speakers presented at the public hearing. In addition to the presentations, FDA has received more than 60 public comments to the docket, which closed on December 31, 2010. Information on this prior public hearing, including the **Federal Register** notice, meeting transcripts, and public comments can be found at *http://www.regulations.gov* (Docket No. FDA–2010–N–0477). FDA carefully considered the presentations and public comments as it was developing the recently issued draft guidances (see section III of this document).

III. Draft Guidances

FDA has issued the following three draft guidances as part of its initial implementation of the BPCI Act based on public input at the November 2010 public hearing regarding priorities for issuing guidances:

- Scientific Considerations in Demonstrating Biosimilarity to a Reference Product (scientific considerations draft guidance),
- Questions and Answers Regarding Implementation of the Biologics Price Competition and Innovation Act of 2009 (Q&A draft guidance), and
- Quality Considerations in Demonstrating Biosimilarity to a Reference Protein Product (quality considerations draft guidance).

The three draft guidances were published in the **Federal Register** on February 15, 2012. The scientific considerations draft guidance discusses important scientific considerations in demonstrating biosimilarity, including the totality-of-the-evidence approach FDA will apply to the review of 351(k) applications and general scientific principles in conducting comparative analyses and studies intended to support a demonstration of biosimilarity.

The Q&A draft guidance provides answers to common questions from sponsors interested in developing proposed biosimilar products, biologics license application (BLA) holders, and other interested parties regarding FDA's interpretation of the BPCI Act.

The quality considerations draft guidance provides recommendations on general principles and specific factors to consider when conducting analytical studies as part of the biosimilarity assessment.

IV. Purpose and Scope of the Public Hearing

The purpose of this public hearing is twofold. First, we wish to receive comments on these three draft guidances from a broad group of stakeholders, such as health care professionals, health care institutions, manufacturers of biomedical products, interested industry and professional associations, patients and patient associations, third party payers, current and prospective BLA and new drug application (NDA) holders, and the public. FDA is seeking feedback, both general and specific, on the scientific considerations, Q&A, and quality considerations draft guidances. For example, FDA would like to know whether the scope of guidance on a particular topic satisfactorily addresses the particular question, whether there are issues FDA could or should have addressed and did not, and whether FDA's thinking on each topic is sufficiently clear to provide meaningful guidance to stakeholders. In addition, FDA welcomes any comments that will help us enhance the usefulness and clarity of these documents.

Second, FDA is interested in obtaining public input regarding the Agency's priorities for development of future policies regarding biosimilars. One of the questions FDA asked at the November 2010 public hearing included what types of guidance documents for industry should be a priority for the Agency during the early period of implementation. In reviewing the comments received, we noted that many comments suggested the Agency begin with general, overarching guidances describing the general requirements and principles for biosimilar product development. We agree with this approach and have begun with the three draft guidance documents to be discussed at this public hearing.

The Agency is interested in soliciting public input on the Agency's plans for development of future policies regarding biosimilars and whether or not it aligns with stakeholder needs. The Agency is also interested in additional topics that should be considered. Topics currently under consideration for future guidances include the following:

- 351(k) applications seeking a determination of interchangeability,
- Requests for reference product exclusivity,
- Naming issues,
- Clinical pharmacology evaluation of biosimilar products, and
- Q&As Regarding Implementation of BPCI Act (next set of questions and answers).[1]

The Agency is committed to continued public outreach as we move forward in our implementation of the BPCI Act. This notice is part of fulfilling that ongoing commitment.

V. Attendance and Registration

The FDA Conference Center at the White Oak location is a Federal facility with security procedures and limited seating. Attendance is free and will be on a first-come, first-served basis. Individuals who wish to present at the public hearing must register by sending an email to *biosimilarspublicmtg@fda.hhs.gov* on or before April 11, 2012, and provide complete contact information, including name, title, affiliation, address, email, and phone number. Those without email access may register by contacting Sandra Benton (see **FOR FURTHER INFORMATION CONTACT**). You should identify each guidance you wish to comment on in your presentation, so that FDA can consider that in organizing the presentations. Individuals and organizations with common interests should consolidate or coordinate their presentations and request time for a joint presentation. FDA will do its best to accommodate requests to speak and will determine the amount of time allotted for each oral presentation, and the approximate time that each oral presentation is scheduled to begin. FDA will notify registered presenters of their scheduled times, and make available an agenda at *http://www.fda.gov/Drugs/NewsEvents/ucm265628.htm* approximately 2 weeks prior to the public hearing. Once FDA notifies registered presenters of their scheduled times, presenters should submit an electronic copy of their presentation to *biosimilarspublicmtg@fda.hhs.gov* by May 1, 2012.

If you need special accommodations because of a disability, please contact Sandra Benton (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

A live Web cast of this public hearing may be seen at *http://www.fda.gov/Drugs/NewsEvents/ucm265628.htm* on the day of the public hearing. A video record of the public hearing will be available at the same Web address for 1 year.

VI. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, who will be accompanied by FDA senior management from the Office of the Commissioner, the Center for Biologics Evaluation and Research, and the Center for Drug Evaluation and Research.

Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation. Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (part 10 (21 CFR part 10, subpart C)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see section VIII of this document). To the extent that the conditions for the hearing, as described in this notice, conflict with any

[1] The Agency is not bound by this list of possible topics for future guidances.

provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

VII. Request for Comments

Regardless of attendance at the public hearing, 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. 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.

VIII. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see **ADDRESSES**). A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Dated: February 27, 2012.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2012–5070 Filed 3–1–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, ZHD1 DSR–Z 55 1.

Date: March 27, 2012.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5b01, Bethesda, MD 20892–7510, 301–435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5017 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, PKA and PKC Targeting Mechanisms.

Date: March 14, 2012.

Time: 3 p.m. to 6 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: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5019 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel, HIV Disclosure SEP.

Date: March 29–30, 2012.

Time: 8 a.m. to 6 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: Michele C. Hindi-Alexander, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–8382, *hindialm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children;

93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5033 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 materials, 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 Drug Abuse Special Emphasis Panel NIDA R13 Conference Grant Review.

Date: March 1, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Integration of Treatment and Prevention Review.

Date: March 1, 2012.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5038 Filed 3–1–12; 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Cardiovascular T32 Training Application.

Date: March 23, 2012.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.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: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5044 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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: Center for Scientific Review Special Emphasis Panel, CICS and MIM Member Conflicts.

Date: March 20, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Olga A. Tjurmina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892. (301) 451–1375. *ot3d@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5036 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel Biomed Career Interventions.

Date: March 26, 2012.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Palomar DC, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Lisa Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12, Bethesda, MD 20892–6200, 301–594–2849, *dunbarl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 28, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5030 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, PAR11–349 Research Using Subjects from the TrialNet Living Biobank (DP3).

Date: March 22, 2012.

Time: 12 p.m. to 3 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: Ann A Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Nutrition and Cystic Fibrosis Clinical Ancillary Studies.

Date: March 29, 2012.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, NAFLD Clinical Ancillary Studies.

Date: March 30, 2012.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Collaborative Interdisciplinary Team Science R24—4.

Date: March 30, 2012.

Time: 3 p.m. to 4:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38z@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Inflammation and LUTS Ancillary Studies.

Date: April 3, 2012.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, NIDDK Central Repositories Non-Renewable Enewable Sample Access (X01).

Date: April 5, 2012.

Time: 2 p.m. to 3 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: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5040 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 Drug Abuse Special Emphasis Panel NIDA–K Special Emphasis Panel (SEP).
Date: March 6, 2012.
Time: 4:30 p.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Nadine Rogers, Ph.D., Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Collaborative Clinical Trials in Drug Abuse.
Date: March 13, 2012.
Time: 11 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Multisite Medications Development for SUDs.
Date: March 15, 2012.
Time: 11 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).
Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, 2012 Translational Avant Garde Review (DP1).
Date: March 27, 2012.
Time: 9 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.
Contact Person: Scott A. Chen, Ph.D., Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4234, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, 301–443–9511, *chensc@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, DIDARP Review.
Date: March 30, 2012.
Time: 12 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Nadine Rogers, Ph.D., Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5039 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Cell Biology.
Date: March 21–22, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA Panel: CounterAct U54 Cooperative Agreements.
Date: March 22, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.
Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel Fellowship: Oncological Sciences.
Date: March 22–27, 2012.
Time: 11 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Ross D Shonat, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7849, Bethesda, MD 20892, 301–435–2786, *shonatr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA Panel: CounterAct U01 Cooperative Agreements.
Date: March 23, 2012.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.
Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA MH12–080: Advancing HIV Prevention through Transformative Behavioral and Social Science Research.
Date: March 23, 2012.

Time: 10 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Digestive Sciences.

Date: March 26, 2012.

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: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pilot and Feasibility Clinical Research Studies in Digestive Diseases and Nurtrition

Date: March 26, 2012.

Time: 2 p.m. to 4 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: Peter J Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, (301) 435–0682, *perrinp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5046 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of an Interagency Pain Research Coordinating Committee (IPRCC) meeting.

The meeting will feature invited speakers and discussion of committee business items including a report on the findings of the Institute of Medicine report *Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research* and a review of information gathered on federally-funded pain research.

The meeting will be open to the public and accessible by live webcast and conference call.

Name of Committee: Interagency Pain Research Coordinating Committee.

Type of meeting: Open Meeting.

Date: March 27, 2012.

Time: 8:30 a.m. to 4:30 p.m. *Eastern Time*—Approximate end time.

Agenda: The meeting will feature invited speakers and discussion of committee business items including a report on the findings of the Institute of Medicine report *Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research* and a review of information gathered on federally-funded pain research.

Place: National Institutes of Health, Building 1, Wilson Hall, 1 Center Drive, Bethesda, MD 20892.

Conference Call: Dial: 800–779–1482, Participant Passcode: 31855.

Cost: The meeting is free and open to the public.

Webcast Live http://videocast.nih.gov/.

Registration: http://iprcc.nih.gov/. Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and is on a first come, first served basis.

Deadlines: Notification of intent to present oral comments: Friday, March 16, 2012, by 5 p.m. ET

Submission of written/electronic statement for oral comments: Tuesday, March 20, 2012, by 5 p.m. ET

Submission of written comments: Thursday, March 22, 2012, by 5 p.m. ET

Access: Medical Center Metro (Red Line) Visitor Information: *http://www.nih.gov/about/visitor/index.htm.*

Contact Person: Dr. Paul Scott, Director, Office of Science Policy and Planning, National Institute of Neurological Disorders and Stroke, NIH, 31 Center Drive, Room 8A03, Bethesda, MD 20892, Phone: (301) 496–9271, Email: IPRCC *PublicInquiries@mail.nih.gov.*

Please Note: Any member of the public interested in presenting oral comments to the Committee must notify the Contact Person listed on this notice by 5 p.m. ET on Friday, March 16, 2012, with their request to present oral comments at the meeting. Interested individuals and representatives of organizations must submit a written/electronic copy of the oral statement/comments including a brief description of the organization represented by 5 p.m. ET on Tuesday, March 20, 2012.

Statements submitted will become a part of the public record. Only one representative of an organization will be allowed to present oral comments on behalf of that organization, and presentations will be limited to three to five minutes per speaker, depending on number of speakers to be accommodated within the allotted time. Speakers will be assigned a time to speak in the order of the date and time when their request to speak is received, along with the required submission of the written/electronic statement by the specified deadline. If special accommodations are needed, please email the Contact Person listed above.

In addition, any interested person may submit written comments to the IPRCC prior to the meeting by sending the comments to the Contact Person listed on this notice by 5 p.m. ET, Thursday, March 22, 2012. The comments should include the name and, when applicable, the business or professional affiliation of the interested person. All written comments received by the deadlines for both oral and written public comments will be provided to the IPRCC for their consideration and will become part of the public record. The meeting will be open to the public through a conference call phone number and webcast live on the Internet. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the conference call or webcast, please call Operator Service on 301 496–4517 for conference call issues and the NIH IT Service Desk at (301) 496–4357, toll free (866) 319–4357, for webcast issues.

Individuals who participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least seven days prior to the meeting.

As a part of security procedures, attendees should be prepared to present a photo ID during the security process to get on the NIH campus. For a full description, please see: *http://www.nih.gov/about/visitorsecurity.htm.*

Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Information about the IPRCC is available on the Web site: *http://iprcc.nih.gov/.*

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy .

[FR Doc. 2012–5037 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel, Autism Centers of Excellence: Centers.

Date: March 28–29, 2012.

Time: 7:30 a.m. to 6 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: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5031 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 5–6, 2012.

Time: April 5, 2012, 8:30 a.m. to 3:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Conference Room 9S235, Bethesda, MD 20892.

Time: April 6, 2012, 8:30 a.m. to 3:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Conference Room 9S235, Bethesda, MD 20892.

Contact Person: James E. Balow, MD, Clinical Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 10, Room 9N222, Bethesda, MD 20892–1818, 301–496–4181, *jimb@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5018 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Maternal and Child Health in Poor Countries: Evidence from Randomized Evaluations MIT.

Date: March 19, 2012.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Carla T. Walls, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–435–6898, *wallsc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 24, 2012.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–5016 Filed 3–1–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Mental Health Services Survey (N–MHSS) (OMB No. 0930–0119)—Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ), is requesting approval for a revision to the National Mental Health Services Survey (N–MHSS) (OMB No. 0930–0119), which expires on February 28, 2013. The N–MHSS provides national and state-level data on the number and characteristics of mental health treatment facilities in the United States.

An immediate need under N–MHSS in 2012 is to update the information about facilities on SAMHSA's online Mental Health Facility Locator (see: *http://store.samhsa.gov/mhlocator*), which was last updated with information from the 2010 N–MHSS. A full N–MHSS is anticipated within about two years, and a separate request for OMB approval will be submitted for that collection. However, until then, an abbreviated version of the N–MHSS will be conducted to collect only the information needed to update the Locator, such as the facility name and address, specific services offered, and special client groups served. The data on the Locator are becoming outdated and need an update method. Other fields in the full N–MHSS not needed for updating the Locator, such as client counts and client demographics, will not be collected in the Locator survey. In addition to the data collection for updating facilities on the Locator, a data collection in conjunction with adding new facilities to the Locator is being requested. Both activities will use the same abbreviated N–MHSS–Locator instrument.

This requested revision seeks to change the content of the currently approved full-scale N–MHSS survey instrument into an abbreviated survey instrument, henceforth referred to as the N–MHSS–Locator, to accommodate two related N–MHSS activities:

(1) Collection of information from the full N–MHSS universe of mental health treatment facilities during 2012, 2013, and 2014. This abbreviated subset of N–MHSS data will update and expand SAMHSA's existing online Mental Health Facility Locator (see: *http://store.samhsa.gov/mhlocator*), which was last updated with information from the 2010 N–MHSS; and

(2) Collection of information on newly identified facilities throughout the year, as they are identified, so that new facilities can quickly be added to the Locator.

The survey mode for both data collection activities will be web with telephone follow-up.

The database resulting from the 2012 N–MHSS–Locator will be used to update SAMHSA's online Mental Health Facility Locator and to produce a 2012 compact disk (CD) directory of facilities, both for use by consumers and service providers. In addition, a data file derived from the survey will be used to produce an annual report providing state and national data on the number and types of treatment facilities and services. The annual report and a public-use data file to be released in conjunction with the report will be used by researchers, mental health professionals, State governments, the U.S. Congress, and the general public.

The following table summarizes the estimated response burden for the two survey activities:

ESTIMATED TOTAL RESPONSE BURDEN FOR THE N–MHSS

Type of respondent	Number of respondents	Responses per respondent	Average hours per response	Total hour burden
Facilities in annual N–MHSS–Locator universe	15,000	1	.42	6,300
Newly identified facilities [1]	1,500	1	.42	630
Total Facilities	16,500			6,930

[1] Collection of information on newly identified facilities throughout the year, as they are identified, so that new facilities can quickly be added to the Locator.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 8–1099, One Choke Cherry Road, Rockville, MD 20857 *or* email a copy to *summer.king@samhsa.hhs.gov*. Written comments must be received before 60 days after the date of the publication in the **Federal Register**.

Summer King,

Statistician.

[FR Doc. 2012–5151 Filed 3–1–12; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the Laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently certified Laboratories and Instrumented Initial Testing Facilities (IITF) is published in the **Federal Register** during the first week of each month. If any Laboratory/IITF's certification is suspended or revoked, the Laboratory/IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any Laboratory/IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs'', as amended in the revisions listed above, requires strict standards that Laboratories and Instrumented Initial Testing Facilities (IITF) must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies.

To become certified, an applicant Laboratory/IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a Laboratory/IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and Instrumented Initial Testing Facilities (IITF) in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A Laboratory/IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following Laboratories and Instrumented Initial Testing Facilities (IITF) meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Instrumented Initial Testing Facilities (IITF)

None.

Laboratories

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.).

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.).

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.).

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709,

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center).

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.).

Maxxam Analytics,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700, (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.).

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave.,Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227, (Formerly: SE.D. Medical Laboratories).

Quest Diagnostics Incorporated, 1777 Montreal Circle,Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 8401 Fallbrook Ave.,West Hills, CA 91304, 800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories).

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

STERLING Reference Laboratories, 2617 East L Street,Tacoma, Washington 98421, 800–442–0438.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 NW. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

Janine Denis Cook,

Chemist, Division of Workplace Programs, center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2012–5087 Filed 3–1–12; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. USCG–2012–0098]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Towing Safety Advisory Committee (TSAC) will meet March 20 and 21, 2012. On March 20, the committee will meet to discuss administrative matters then recess for the meeting of the Towing Vessel Inspection Work Group. The committee will reconvene on March 21, 2012. The meeting of the TSAC on both days and the meeting of the working group are open to the public.

DATES: March 20, 2012, noon to 5 p.m. The TSAC will meet to discuss administrative matters then recess for the meeting of the Towing Vessel Inspection Work Group. March 21, 2012, the TSAC will reconvene 8:30 a.m. to 4:30 p.m. Please note that these meetings may close early if the committee has completed its business. Written comments must be submitted no later than March 15, 2012.

ADDRESSES: The meetings will be held at the Houston Marriott South at Hobby Airport, 9100 Gulf Freeway; Houston TX 77017. Hotel Web site: *http://www.marriott.com/hotels/travel/houhh-houston-hobby-airport-marriott/.*

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee. Written comments must be identified by Docket No. USCG–2012–0098 and submitted by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* 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. We encourage use of electronic submissions because security screening may delay the delivery of mail.
- *Fax:* 202–493–2251.
- *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 methods. For instructions on submitting comments, see the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below.

Written comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Anyone can search the electronic form of comments received into the docket 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). For access to the docket to read background documents or comments received in response to this notice, go to *http://www.regulations.gov,* insert USCG–2012–0098 in the Keyword ID box, press Enter, and then click on the item you are interested in viewing.

FOR FURTHER INFORMATION CONTACT: CDR Rob Smith, Designated Federal Officer

(DFO) or Mr. Patrick Mannion, Alternate Designated Federal Officer (ADFO), TSAC; U.S. Coast Guard Headquarters, CG–5222, Vessel and Facilities Operating Standards Division; telephone (202) 372–1439, fax (202) 372–1926, or email at: *Patrick.J.Mannion@USCG.MIL.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463) as amended (FACA). This Committee is established in accordance with and operates under the provisions of the FACA. It was established under the authority of 33 U.S.C. 1231a and advises, consults with, and makes recommendations to the Secretary of the Department of Homeland Security (DHS) on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. TSAC may complete specific assignments such as studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and/or with state and local government jurisdictions in compliance with FACA.

Agenda

March 20, 2012, noon to 5 p.m. The TSAC will meet to discuss administrative matters such as introduction of new members, committee procedures, travel claim processing, and review committee bylaws. The TSAC will then recess and the Towing Vessel Inspection Workgroup will meet to discuss work remaining on that task statement.

March 21, 2012, 8:30 a.m., the TSAC will reconvene. Over the past two years, the committee worked on issues related to and provided recommendations to the Coast Guard regarding an Inspection of Towing Vessels rulemaking. With the publication of the Inspection of Towing Vessels notice of proposed rulemaking (76 FR 49976, August 11, 2011), the committee is transitioning to new tasking focused on the challenges, hazards, and other issues directly related to the towing vessel industry. The committee will review and discuss relevant task statements, receive briefings to inform their work on the issues, review and discuss the information and data presented, and recommend a plan of work to address these new tasks. Presentations and discussions will include the following subjects:

- Presentation on ''Towing Vessel Stability Casualty Data'' and discussion of the task ''Towing Vessel Stability;''
- Presentation on ''Towing Vessel Crewmember Competencies'' and discussion of the task ''Towing Vessel Crewmember Competencies;''
- Presentation on ''Falls Overboard'' and discussion of the task ''Prevention of Falls Overboard, Towing Vessels;''
- Informational briefing on recent activities within the Stability, Load Lines and Fishing Vessels' Safety (SLF) Sub-Committee at International Maritime Organization related to stability standards for anchor handling tugs, towing vessels, and vessels engaged in lifting activities;
- Presentation on ''EPA Vessel General Permit;''
- Presentation on ''Towing Vessel Bridging Program, Transition to Phase II;''
- Presentation on ''Moving machinery hazards;''
- Presentation on ''Coast Guard oversight of fire suppression servicing entities;''
- Discussion of the ''Ballast Water Task Statement;''
- Discussion on the task ''Towing Vessel Inspection.'' (Task Statement 04–03);
- Report from the Commanding Officer of the National Maritime Center.

Public Comment Period

An opportunity for oral comments by the public will be provided during the meeting on March 21, 2012, as the final agenda item. Speakers are requested to limit their comments to 5 minutes. Please note that the public oral comment period may end before 4:30 p.m. if all of those wishing to comment have done so.

Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Mr. Patrick Mannion at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Minutes

Minutes from the meeting will be available for the public to review within 30 days following the close of the meeting and can be accessed from the Coast Guard Homeport Web site *http://homeport.uscg.mil* or the online docket for this notice.

Dated: February 28, 2012.

F.J. Sturm,

Deputy Director of Commercial Regulations and Standards.

[FR Doc. 2012–5143 Filed 3–1–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2011–0040; OMB No. 1660–0045]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Inspection of Insured Structures by Communities

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before April 2, 2012.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Inspection of Insured Structures by Communities.

Type of information collection: Extension, without change, of a currently approved collection.

OMB Number: 1660–0045.

Form Titles and Numbers: No Forms.

Abstract: The community inspection report is used for the implementation of the inspection procedures to help

communities in Monroe County, the City of Marathon, and the Village of Islamorada, Florida, verify buildings are compliant with their floodplain management ordinance and to help FEMA ensure that policyholders are paying flood insurance premiums that are commensurate with their flood risk.

Affected Public: State, Local and Tribal governments.

Estimated Number of Respondents: 833.

Frequency of Response: Annually.

Estimated Average Hour Burden per Respondent: 25 hours, Individual and Households and 1 hour, State/Local/Tribal Government.

Estimated Total Annual Burden Hours: 1,041 hours.

Estimated Cost: The estimated annualized cost burden to respondents or recordkeepers is $168,266.

John G. Jenkins, Jr.,

Acting Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2012–5146 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–42–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2009–0024]

Enforcement Actions Summary

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of availability.

SUMMARY: The Transportation Security Administration (TSA) is providing notice that it has issued an annual summary of all enforcement actions taken by TSA under the authority granted in the Implementing Recommendations of the 9/11 Commission Act of 2007.

FOR FURTHER INFORMATION CONTACT: Emily Su, Assistant Chief Counsel, Civil Enforcement, Office of the Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6002; telephone (571) 227–2305; facsimile (571) 227–1378; email *emily.su@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 3, 2007, section 1302(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Act), Public Law 110–53, 121 Stat. 392, gave TSA new authority to assess civil penalties for violations of any surface transportation requirements under title 49 of the U.S. Code (U.S.C.) and for any violations of chapter 701 of title 46 of the U.S. Code, which governs transportation worker identification credentials.

Section 1302(a) of the 9/11 Act, codified at 49 U.S.C. 114(v), authorizes the Secretary of the Department of Homeland Security (DHS) to impose civil penalties of up to $10,000 per violation of any surface transportation requirement under 49 U.S.C. or any requirement related to transportation worker identification credentials (TWIC) under 46 U.S.C. chapter 701. TSA exercises this function under delegated authority from the Secretary. See DHS Delegation No. 7060–2.

Under 49 U.S.C. 114(v)(7)(A), TSA is required to provide the public with an annual summary of all enforcement actions taken by TSA under this subsection; and include in each such summary the identifying information of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty. This summary is for calendar year 2011. TSA will publish a summary of all enforcement actions taken under the statute in January to cover the previous calendar year.

Document Availability

You can get an electronic copy of both this notice and the enforcement actions summary on the Internet by searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov,* Docket No. TSA–2009–0024.

You can get an electronic copy of only this notice on the Internet by—

(1) Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the Federal Register by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(2) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Issued in Arlington, Virginia, February 23, 2012.

Margot F. Bester,

Principal Deputy Chief Counsel.

[FR Doc. 2012–5032 Filed 3–1–12; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, SGS North America, Inc., 12650 McManus Blvd., Suite 103, Newport News, VA 23602, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on September 8, 2011. The next triennial inspection date will be scheduled for September 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 21, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5103 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Amspec Services LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Amspec Services LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Amspec Services LLC, 12154 B River Road, St. Rose, LA 70087, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Amspec Services LLC, as commercial gauger and laboratory became effective on August 18, 2011. The next triennial inspection date will be scheduled for August 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5114 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Coastal Gulf and International, Inc. as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Coastal Gulf and International, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Coastal Gulf and International, Inc., 13607 River Road, Luling, LA 70070, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Coastal Gulf and International, as commercial gauger and laboratory became effective on September 28, 2011. The next triennial inspection date will be scheduled for September 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5111 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Certispec Services USA, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Certispec Services USA, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Certispec Services USA, Inc., 1448 Texas Avenue, Texas City, TX 77590, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Certispec Services USA, Inc., as commercial gauger and laboratory became effective on June 01, 2011. The next triennial inspection date will be scheduled for June 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 21, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5093 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Camin Cargo Control, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Camin Cargo Control, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Camin Cargo Control, Inc., 1301 Metropolitan Ave., Thorofare, NJ 08086, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation and approval of Camin Cargo Control, Inc., as commercial gauger and laboratory became effective on September 20, 2011. The next triennial inspection date will be scheduled for September 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 21, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5095 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of ALTOL Chemical and Environmental Lab Inc., as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Altol Chemical and Environmental Lab Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12, Altol Chemical and Environmental Lab Inc., Sabanetas Industrial Park, Building M–1380, Ponce, PR 00715, has been accredited to test petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation of Altol Chemical and Environmental Lab Inc., as commercial laboratory became effective on October 6, 2011. The next triennial inspection date will be scheduled for October 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 21, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5097 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of Saybolt LP, as a Commercial Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation of Saybolt LP, as a commercial laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12, Saybolt LP, 109 Woodland Dr., Laplace, LA 70068, has been accredited to test petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12. Anyone wishing to employ this entity to conduct laboratory analyses should request and receive written assurances from the entity that it is accredited by the U.S. Customs and Border Protection to conduct the specific test requested. Alternatively, inquiries regarding the specific test this entity is accredited to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The accreditation of Saybolt LP, as commercial laboratory became effective on September 29, 2011. The next triennial inspection date will be scheduled for September 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5116 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of International Marine Consultants, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of International Marine Consultants, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, International Marine Consultants, 429 Padre Rufo St. Floral Park, Hato Rey, PR 00917, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of International Marine Consultants as commercial gauger became effective on November 3, 2011. The next triennial inspection date will be scheduled for November 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5122 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Saybolt LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Saybolt LP, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Saybolt LP, 905C Eastern Blvd., Clarksville, IN 47129, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of Saybolt LP, as commercial gauger became effective on August 16, 2011. The next triennial inspection date will be scheduled for August 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5117 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of Saybolt LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of Saybolt LP, as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, Saybolt LP, 190 James Drive East, Suite 110, St. Rose, LA 70087, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of Saybolt LP, as commercial gauger became effective on August 18, 2011. The next triennial inspection date will be scheduled for August 2014.

FOR FURTHER INFORMATION CONTACT: Christopher Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 22, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5115 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of SGS North America, Inc., as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, SGS North America, Inc., 6624 Langley Dr., Baton Rouge, LA 70809, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/

DATES: The approval of SGS North America, Inc., as commercial gauger became effective on August 23, 2011. The next triennial inspection date will be scheduled for August 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Cassata, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: February 21, 2012.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2012–5101 Filed 3–1–12; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5607–N–03]

Notice of Proposed Information Collection; Comment Request: Multifamily Housing Procedures for Projects Affected by Presidentially-Declared Disasters

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 1, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street SW., L'Enfant Plaza Building, Washington, DC 20410; room 9120 or number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Jeremy Bates, Housing Program Manager, Office of Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–6608 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Multifamily Housing Procedures for Projects Affected by Presidentially-Declared Disasters.

OMB Control Number, if applicable: 2502–0582.

Description of the need for the information and proposed use: The purpose of this information collection is to ensure that owners follow HUD procedures, as laid out in HUD Housing Handbook 4350.1, chapter 38, regarding recovery efforts after a Presidentially-declared disaster.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is estimated to be 1,067. The number of respondents is 577, the frequency of response is 1, the number of responses is based on the average number of declared disasters within the last three years (averaged at 79 per year), and the total burden hours per response is 13.5.

Status of the proposed information collection: This is a revised collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: February 27, 2012.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner.

[FR Doc. 2012–5127 Filed 3–1–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–09]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC

20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 23, 2012.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2012–4699 Filed 3–1–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2012–N048; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before April 2, 2012. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by April 2, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: University of Tennessee, College of Veterinary Medicine, Knoxville, TN; PRT–60971A

The applicant requests a permit to import biological samples from 3 captive born cheetahs (*Acinonyx jubatus*) for the purpose of scientific research on the incidence of feline infectious peritonitis in the cheetahs at the Toronto Zoo, Ontario, Canada.

Applicant: Mountain Gorilla Veterinary Project, Baltimore, MD; PRT–117181

The applicant requests renewal of a permit to import biological samples from wild and captive-held Eastern Gorilla (*Gorilla beringei*), Western Gorilla (*Gorilla gorilla*), bonobo (*Pan paniscus*), chimpanzee (*Pan troglodytes*), and L'hoest's monkey (*Cercopithecus lhostei*) for the purpose of scientific research to determine the presence and/or prevalence of infectious diseases within and between these species in Rwanda, Uganda, and the Democratic Republic of the Congo. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Birds N Beasts Inc., Las Vegas, NV; PRT–62008A

The applicant requests a permit to purchase in interstate commerce one

male captive-bred Andean condor (*Vultur gryphus*), for the purpose of enhancement of the species through conservation education and captive propagation.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Michael Bowers, Oro Grande, CA; PRT–64010A

Applicant: Ralph Rocca, Apple Valley, CA; PRT–64011A

B. Endangered Marine Mammals

Applicant: Cathy Walsh, Mote Marine Laboratory, Sarasota, FL; PRT–58292A

The applicant requests a permit to take biological specimens from up to 30 wild and up to 20 captive held Florida manatee (*Trichechus manatus*) annually for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–5021 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX12LC00BM3FD00]

Agency Information Collection Activities: Comment Request

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of an information collection (1028–0079).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we will submit to OMB an extension of a currently approved information collection (IC) for the ''North American Breeding Bird Survey, (1 USGS form).'' As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on July 31, 2012.

DATES: Submit written comments by May 1, 2012.

ADDRESSES: Please send your comments concerning the IC to the USGS to the Information Collection Clearance Officer, Shari Baloch, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); 703–648–7199 (fax); or *smbaloch@usgs.gov* (email). Reference Information Collection 1028–0079 in the subject line.

FOR FURTHER INFORMATION CONTACT: Keith Pardieck at (301) 497–5843 (phone); *kpardieck@usgs.gov* (email); or 12100 Beech Forest Road, Laurel, Maryland, 20708 (mail).

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents supply the U.S. Geological Survey with avian population data for more than 600 North American bird species. The raw survey data, resulting population trend estimates, and relative abundance estimates will be made available via the Internet and through special publications, for use by Government agencies, industry, education programs, and the general public. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked.

II. Data

Title: North American Breeding Bird Survey.

OMB Control Number: 1028–0079.

Form Number: 840.

Type of Request: Extension of a currently approved collection.

Respondent Obligation: Voluntary.

Frequency: Annually.

Estimated Number and Description of Respondents: Approximately 1,600 individuals skilled in avian identification will participate.

Estimated Number of Responses: 2600.

Annual Burden Hours: 28,600.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the public reporting burden averages 11 hours per response. This includes the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: Mileage costs are on average $55.50 per response. This includes an approximate 100-mile round trip for data collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We invite comments concerning this IC on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Please note that any comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publically available at anytime. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that will be done.

Dated: February 23, 2012.

Anne Kinsinger,

Associate Director for Ecosystems.

[FR Doc. 2012–5173 Filed 3–1–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[USGS–GX12GL00DT70500]

Agency Information Collection Activities: Comment Request for National Geological and Geophysical Data Preservation Program (NGGDPP)

AGENCY: U.S. Geological Survey (USGS), Department of the Interior.

ACTION: Notice of an extension of a currently approved information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we (the U.S. Geological Survey) are notifying the public that we will submit to OMB an extension of a currently approved information collection (IC) for the National Geological and Geophysical Data Preservation Program (NGGDPP) under Section 351 of the Energy Policy Act of 2005. This notice provides the public and other Federal agencies an opportunity to comment on the paperwork burden of this information collection (IC). The existing IC is scheduled to expire on July 31, 2012. To submit a proposal to the NGGDPP, a project narrative must be completed and submitted via *www.Grants.gov.* Furthermore, a final technical report for all projects is required at the end of the project period. Narrative and report guidance is available through *http://datapreservation.usgs.gov/*and at *www.Grants.gov.*

DATES: Submit written comments by May 1, 2012.

ADDRESSES: Please send your comments concerning the IC to the USGS Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 807, Reston, VA 20192 (mail); 703–648–7199 (fax); or *smbaloch@usgs.gov* (email). Please reference Information Collection 1028–0087.

FOR FURTHER INFORMATION CONTACT: Betty Adrian at (303) 202–4828 or by mail at U.S. Geological Survey, Box 25046, MS 975, Denver Federal Center, Denver, CO 80225, or by email at *badrian@usgs.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Geological and Geophysical Data Preservation Program (NGGDPP).

OMB Control Number: 1028–0087.

Abstract: Section 351 of the Energy Policy Act of 2005 directs the Secretary of the Interior, through the Director of the U.S. Geological Survey, as follows, ''The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) To archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) To provide a national catalog of such archival material; and

(3) To provide technical and financial assistance related to the archival material.'' The Plan outlines program goals and recommends implementation strategies. An action item in the plan is to ''begin interactions with State geological surveys and other DOI agencies that maintain geological and geophysical data and samples to address their preservation and data rescue needs.'' In response, the USGS is requesting each state that elects to participate in the program to:

(1) Inventory their current collections and data preservation needs to provide a snapshot of the diversity of scientific collections held, supported, or used by State geological surveys. This inventory of current collections will form the foundation of the National Catalog;

(2) Build the National Catalog by providing site-specific metadata for items in inventoried collections. Focus on site-specific sample data allows broad national coverage with content useful to a wide variety of users. The types of sites cataloged will be determined by the holdings of participating states; and

(3) In FY 2010 and beyond, depending on appropriations, states would be invited to propose projects that address other priorities identified in the Implementation Plan for the National Geological and Geophysical Data Preservation Program, including: (a) Inventory collections of geological and geophysical data; (b) Digital infrastructure; (c) Metadata for items in data collections; and (d) Special data rescue needs.

Furthermore, annual data preservation priorities are provided in the Program Announcement as guidance for applicants to consider when submitting proposals. Annual priorities are determined by the USGS NGGDPP Catalog and Financial and Technical Assistance Committees comprising representatives from State geological surveys, industry, academia, and DOI. Since its inception in 2007, NGGDPP has awarded, and 44 states have matched, over $2,521,000 in grant funds.

This notice concerns the collection of information that is sufficient and relevant to evaluate and select proposals for funding. We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2), and under regulations at 30 CFR 250.197, ''Data and information to be made available to the public or for limited inspection.'' Responses are voluntary. No questions of a ''sensitive'' nature are asked. We intend to release the project abstracts and primary investigators for awarded/funded projects only.

Frequency: Annually.

Estimated Annual Number and Description of Respondents: Approximately 49 State Geological Surveys will have the opportunity to apply for matching Federal funds.

Respondent Obligation: Voluntary (necessary to receive benefits).

Estimated Total Number of Annual Responses: 34.

Estimated Annual Burden Hours: 1224 hours.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: We estimate the public reporting burden averages 36 hours per response. This includes time (1) to write and review the proposal and submit it through *www.Grants.gov* and (2) prepare and submit the final technical report.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': We have not identified any ''non-hour cost'' burdens associated with this collection of information.

Request for Comments: We invite comments concerning this IC on: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Please note that any comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publically available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that will be done.

Dated: February 23, 2012.

Betty M. Adrian,

Acting Program Coordinator, National Geological and Geophysical Data, Preservation Program.

[FR Doc. 2012–5174 Filed 3–1–12; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the Proposed Spokane Tribe of Indians West Plains Casino and Mixed Use Project, City of Airway Heights, Spokane County, WA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs intends to file a draft environmental impact statement with the U.S. Environmental Protection Agency for the Spokane Tribe of Indians West Plains casino and mixed use project, City of Airway Heights, Spokane County, Washington. The draft statement is now available for public review and BIA will hold a public hearing to receive comments on the mixed use project.

DATES: Submit written comments by April 16, 2012. The public hearing will be held on March 26, 2012, starting at 6 p.m. and will run until the last public comment is received.

ADDRESSES: You may mail or hand deliver written comments to Mr. Stanley Speaks, Northwest Regional Director, Bureau of Indian Affairs, Northwest Region, 911 Northeast 11th Avenue, Portland, Oregon 97232.

The public hearing will be held at the Sunset Elementary School Gymnasium, 12824 West 12th Avenue, Airway Heights, Washington 99001.

FOR FURTHER INFORMATION CONTACT: Dr. B.J. Howerton, Bureau of Indian Affairs, Northwest Region, 911 Northeast 11th Avenue, Portland, Oregon 97232; fax (503) 231–2275; phone (503) 231–6749.

SUPPLEMENTARY INFORMATION: Public review of the draft environmental impact statement (DEIS) is part of the administrative process for evaluating tribal applications seeking a two-part determination from the Secretary of the Interior under Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)). Under Council on Environmental Quality National Environmental Policy Act (NEPA) regulations (40 CFR 1506.10), the publication of this notice of availability in the **Federal Register** initiates a 45-day public comment period.

Background

The Spokane Tribe of Indians (Tribe) has requested that the Secretary of the Interior issue a two-part determination under Section 20 of the Indian Gaming Regulatory Act for Class III gaming on 145 acres held in Federal trust for the Tribe near the City of Airway Heights, Washington. The 145-acre project is located immediately west of the city limits of Airway Heights in the unincorporated West Plains area of Spokane County, Washington.

The proposed project consists of the following components: (1) Issuance of a two-part determination by the Secretary of the Interior; and (2) development of a casino-resort facility, parking structure, site retail, commercial building, tribal cultural center, and police/fire station within the project site. At full build-out, the proposed casino-resort facility would have approximately 98,442 square feet of gaming floor and a 300-room hotel.

The following alternatives are considered in the DEIS: (1) Proposed casino and mixed-use development; (2) reduced casino and mixed-use development; (3) non-gaming mixed-use development; and (4) no action/no development. Environmental issues addressed in the DEIS include geology and soils, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth inducing effects.

BIA issues the DEIS as lead agency, with the Spokane Tribe of Indians, National Indian Gaming Commission, Washington State Department of Transportation, City of Airway Heights, Spokane County, Federal Aviation Administration, and U.S. Department of the Air Force serving as cooperating agencies. BIA held a public scoping meeting for the project on September 16, 2009, in the City of Airway Heights, Washington.

Directions for Submitting Comments

Please include your name, return address, and the caption: ''DEIS Comments, Spokane Tribe of Indians West Plains Development Project,'' on the first page of your written comments.

Locations Where the DEIS Is Available for Review

The DEIS will be available for review at the Airway Heights Branch of the Spokane County Library District, located at 1213 South Lundstrom St. Airway Heights, Washington 99001 and the Spokane Public Library, located at 906 West Main Street, Spokane, Washington 99201. The DEIS is also available online at: *http://www.westplainseis.com.*

To obtain a compact disk copy of the DEIS, please provide your name and address in writing or by voice mail to Dr. B.J. Howerton, whose contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual paper copies of the DEIS will be provided upon payment of printing expenses by the requestor for the number of copies requested.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA mailing address shown in the **ADDRESSES** section of this notice, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published under § 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and § 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the National Environmental Policy Act of l969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: February 17, 2012.

Larry Echo Hawk,

Assistant Secretary—Indian Affairs.

[FR Doc. 2012–4803 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ931000.L51010000.FX0000. LVRWA09A2590; AZA34666]

Notice of Segregation of Public Lands in the State of Arizona Associated With the Proposed Quartzsite Solar Energy Project, La Paz County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is segregating public lands located in the State of Arizona from appropriation under the public land laws, including the mining law, but not the mineral leasing or material sales acts, for a period of 2

years. This segregation is being made in connection with the BLM's processing of a right-of-way (ROW) application for Quartzsite Solar Energy, LLC's Quartzsite Solar Energy Project (Proposed Project). This segregation covers approximately 2,013.76 acres of BLM-administered public lands located within the Proposed Project's ROW application area.

DATES: This segregation is effective on March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Eddie Arreola, Supervisory Project Manager; Telephone: 602–417–9505; Address: One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, or email: *earreola@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM's Yuma Field Office, Yuma, Arizona, in connection with its consideration of a ROW application for the Proposed Project, is segregating the following described public lands located within the Proposed Project's ROW application area, subject to valid existing rights, from appropriation under the public land laws, including the mining law, but not the mineral leasing or the material sales acts:

Gila and Salt River Meridian, Arizona

T. 6 N., R. 18 W.,
Sec. 30, lots 1 to 4, inclusive.
T. 6 N., R. 19 W.,
Sec. 23, E½SE¼, SW¼SE¼;
Sec. 24, S½;
Sec. 25;
Sec. 26, E½, E½NW¼, E½SW¼, and NW¼SW¼;
Sec. 27, E½NE¼SE¼;
Sec. 35, N½NE¼;
Sec. 36, N½NE¼ and N½NW¼.

Containing 2,013.76 acres, more or less.

The area described contains approximately 2,013.76 acres located in La Paz County, Arizona. The Western Area Power Administration announced its intention to prepare an Environmental Impact Statement (EIS) and initiated a public scoping process for the Proposed Project on January 14, 2010 (75 FR 2133). The BLM is a cooperating agency for the EIS based on its consideration of a ROW application for the Proposed Project. On March 30, 2011, the BLM announced the beginning of a scoping process to solicit public comments and identify issues associated with a proposed resource management plan (RMP) amendment being considered in conjunction with the ROW application for the Proposed Project (76 FR 17668).

The BLM is segregating the lands under the authority contained in 43 CFR 2091.3–1(e) and 43 CFR 2804.25(e) for a period of 2 years, subject to valid existing rights. This 2-year segregation period will commence on March 2, 2012. These public lands will be segregated from appropriation under the public land laws, including the mining law, but not the mineral leasing or material sales acts. This segregation will not affect valid existing rights. It has been determined that this segregation is necessary for the orderly administration of the public lands by maintaining the status quo while the BLM processes the ROW application for the Proposed Project.

The segregation period will terminate and the lands will automatically reopen to appropriation under the public land laws, including the mining laws, if one of the following events occurs: (1) Upon the issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a right-of-way; (2) Upon publication of a **Federal Register** notice of termination of the segregation; or (3) Without further administrative action at the end of the segregation provided for in this **Federal Register** notice initiating the segregation, whichever occurs first.

Any segregation made under this authority would be effective only for a period of up to 2 years. The lands to be segregated pursuant to the authority at 43 CFR 2091.3–1(e) and 2804.25(e) are identified in the legal description provided above.

Raymond Suazo,

State Director.

Authority: 43 CFR 2091.3–1(e), 43 CFR 2804.25(e).

[FR Doc. 2012–5149 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ931000.L51010000.FX0000. LVRWA09A2310; AZA32315]

Notice of Segregation of Public Lands in the State of Arizona Associated With the Proposed Mohave County Wind Farm Project, Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is segregating public lands located in the State of Arizona from appropriation under the public land laws, including the mining law, but not the mineral leasing or material sales acts, for a period of 2 years. This segregation is being made in connection with the BLM's processing of a right-of-way (ROW) application for British Petroleum Wind Energy North America's Mohave County Wind Farm Project (Proposed Project). This segregation covers approximately 38,016.60 acres of BLM-administered public lands located within the Proposed Project's ROW application area.

DATES: This segregation is effective on March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Eddie Arreola, Supervisory Project Manager; Telephone: 602–417–9505; Address: One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427, or email: *earreola@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM's Kingman Field Office, Kingman, Arizona, in connection with its consideration of a ROW application for the Proposed Project, is segregating the following described public lands located within the Proposed Project's ROW application area, subject to valid existing rights, from appropriation under the public land laws, including the mining law, but not the mineral leasing or the material sales acts:

Gila and Salt River Meridian, Arizona

T. 28 N., R. 19 W.,
Sec. 6;
Sec. 7, N½.
T. 29 N., R. 19 W.,
Sec. 5, lot 4, SW¼NW¼, and W½SW¼;
Secs. 6 and 7;
Sec. 8, S½;
Sec. 9, W½SW¼;
Sec. 16, W½NW¼ and W½SW¼;
Secs. 17 to 20, inclusive;
Secs. 30 and 31;
Sec. 32, W½NE¼; W½, and W½SE¼.
T. 28 N., R. 20 W.,
Secs. 1 to 11, inclusive;
Sec. 12, N½, N½SW¼, and N½SE¼;
Sec. 14, N½, N½SW¼, and N½SE¼;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 29 N., R. 20 W.,
Secs. 1 and 2;

Secs. 11 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 28 N., R. 21 W.,
Sec. 1;
Secs. 12 and 13;
Sec. 14, E½SE¼;
Sec. 24, E½.
Containing 38,016.60 acres, more or less.

The area described contains approximately 38,016.60 acres located in Mohave County, Arizona. The BLM announced its intention to prepare an Environmental Impact Statement and initiated a public scoping process for the Proposed Project on November 20, 2009 (74 FR 60289). A supplemental notice of intent was issued on July 26, 2010 (75 FR 43551).

The BLM is segregating the lands under the authority contained in 43 CFR 2091.3–1(e) and 43 CFR 2804.25(e) for a period of 2 years, subject to valid existing rights. This 2-year segregation period will commence on March 2, 2012. These public lands will be segregated from appropriation under the public land laws, including the mining law, but not the mineral leasing or material sales acts. This segregation will not affect valid existing rights. It has been determined that this segregation is necessary for the orderly administration of the public lands by maintaining the status quo while the BLM processes the ROW application for the Proposed Project.

The segregation period will terminate and the lands will automatically reopen to appropriation under the public land laws, including the mining laws, if one of the following events occurs: (1) Upon the issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a right-of-way; (2) upon publication of a **Federal Register** notice of termination of the segregation; or (3) without further administrative action at the end of the segregation provided for in this **Federal Register** notice initiating the segregation, whichever occurs first. Any segregation made under this authority would be effective for a period of 2 years. The lands to be segregated pursuant to the authority at 43 CFR 2091.3–1(e) and 2804.25(e) are identified in the legal description provided above.

Raymond Suazo,

State Director.

Authority: 43 CFR 2091.3–1(e), 43 CFR 2804.25(e).

[FR Doc. 2012–5152 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–0212–9590; 2200–1100–665]

Proposed Information Collection; Native American Graves Protection and Repatriation Regulations

AGENCY: National Park Service (NPS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on August 31, 2012. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

DATES: To ensure we are able to consider your comments, we must receive them on or before May 1, 2012.

ADDRESSES: Please send your comments on the ICR to Madonna L. Baucum, Acting Information Collection Clearance Officer, National Park Service, 1201 I Street NW., MS 1242, Washington, DC 20005 (mail); or *madonna_baucum@nps.gov* (email). Please reference OMB Control Number ''1024–0144, Native American Graves Protection and Repatriation Regulations'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1201 Eye Street NW., 8th floor, Washington, DC 20005; or via phone at 202–354–1479; or via fax at 202–354–5179; or via email at *Sherry_Hutt@nps.gov.* You are entitled to a copy of the entire ICR package free of charge.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Native American Graves Protection and Repatriation Act (NAGPRA), requires museums to compile certain information (summaries, inventories, and notices) regarding Native American cultural items in their possession or control and provide that information to lineal descendants, likely interested Indian tribes and Native Hawaiian organizations, and the National NAGPRA Program (acting on behalf of the Secretary of the Interior, housed in the National Park Service), to support consultation in the process of publishing notices that establish rights to repatriation. The summaries are general descriptions of the museum's Native American collection, sent to all possibly interested tribes to disclose the collection, should the tribe desire to consult on items and present a claim. The inventories are item-by-item lists of the human remains and their funerary objects, upon which the museum consults with likely affiliated tribes to determine cultural affiliation, tribal land origination, or origination from aboriginal lands of Federal recognized tribes. Consultation and claims for items require information exchange between museums and tribes on the collections. Notices of Inventory Completion, published in the **Federal Register** indicate the museum decisions of rights of lineal descendants and tribes to receive human remains and funerary objects; Notices of Intent to Repatriate, published in the **Federal Register**, indicate the agreements of museums and tribes to transfer control to tribes of funerary objects, sacred objects and objects of cultural patrimony. Museums identify NAGPRA protected items in the collection through examination of museum records and from consultation with tribes.

The National NAGPRA Program maintains the public databases of summary, inventory and notice information to support consultation. In the first 20 years of the administration of NAGPRA approximately 40,000 Native American human remains, of a possible collection of 180,000 individuals, have been listed in NAGPRA notices. Information collection of previous years is of lasting benefit, diminishing efforts in future years.

II. Data

OMB Number: 1024–0144.
Title: Native American Graves Protection and Repatriation Regulations, 43 CFR part 10.
Service Form Number: None.
Type of Request: Extension of a currently approved collection of information.
Description of Respondents: Museums that receive Federal funds and have possession of or control over Native American cultural items.
Respondent's Obligation: Voluntary.
Frequency of Collection: On occasion.
Estimated Number of Annual Respondents: 100 (NPS estimates 50 new Consultation Inventory & Summary updates and approximately 50 Museum Notices Inventory and Summary).

Completion Time per Response: Public reporting burden for this collection of information is expected to average 100 hours for the exchange of summary/inventory information between a museum or Federal agency and an Indian tribe or Native Hawaiian organization and six hours per response for the notification to the Secretary, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collected information.

Estimated Total Annual Burden Hours: 5,300 hours, assuming a large, unresolved collection of Native American human remains and NAGPRA cultural items.

Information collections	Annual respondents	Annual response	Avg. time/ response (hr)	Total annual burden hours	$ Value of burden hours (30.07/hr)
(1) Consultation inventory & summary updates	50	50	100	5,000	$150,350
(2) Museum Notices Inventory and Summary	50	50	6	300	9,021
Total	100	100	106	5,300	159,371

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden to respondents, including use of automated information techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: February 27, 2012.

Madonna L. Baucum,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–5128 Filed 3–1–12; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–BSD–0212–9671; 2410–OYC]

Proposed Information Collection; Proposed Sale of Concession Operations

AGENCY: National Park Service (NPS), Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this IC. This IC is scheduled to expire on July 31, 2012. We may not conduct or sponsor and a person is not required to respond to a collection unless it displays a currently valid OMB control number.

DATES: Please submit your comment on or before May 1, 2012.

ADDRESSES: Please send your comments on the IC to Madonna Baucum, Acting Information Collection Clearance Coordinator, National Park Service, 1201 Eye St. NW., MS 1242, Washington, DC 20005 (mail); or *madonna_baucum@nps.gov* (email). Please reference ''1024–0126, Proposed Sale of Concessions Operations'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, Chief, Commercial Services Program, 1201 Eye St. NW., Washington, DC 20005. You may send an email to *jo_pendry@nps.gov* or contact her by telephone at (202) 513–7156 or via fax at (202) 371–2070. You are entitled to a copy of the entire IC package free of charge.

SUPPLEMENTARY INFORMATION:

I. Abstract

The NPS authorizes private businesses known as concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. Concession authorizations may be assigned, sold, transferred, or encumbered by the concessioner subject to prior written approval of the NPS. The NPS requires that certain information be submitted for review prior to the consummation of any sale, transfer, assignment, or encumbrance.

The information requested is used to determine whether or not the proposed transaction will result in an adverse impact on the protection, conservation, or preservation of the resources of the unit of the National Park System; decreased services to the public; the lack of a reasonable opportunity for profit over the remaining term of the authorization; or rates in excess of approved rates to the public. In addition, pursuant to the regulations at 36 CFR Part 51, the value of rights for intangible assets such as the concession contract, right of preference in renewal, user days, or low fees, belongs to the Government.

If any portion of the purchase price is attributable either directly or indirectly to such assets, the transaction may not be approved. The amount and type of information to be submitted varies with the type and complexity of the proposed transaction. Without such information, the NPS would be unable to determine whether approval of the proposed transaction would be adequate.

II. Data

OMB Control Number: 1024–0126.

Title: Proposed Sale of Concession Operations, 36 CFR 51, Subpart J.

Form(s): None.

Type of Request: Extension of a previously approved collection of information.

Description of Respondents: Businesses, individuals, and nonprofit organizations.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency of Collection: On Occasion.

Estimated Number of Annual Respondents: 20.

Completion Time per Response: 80 hours.

Estimated Total Annual Burden Hours: 1,600.

Estimated Annual Nonhour Burden Cost: $5,000—There are no costs associated with preparing and submitting an application, other than expenses for printing, which is estimated to be approximately $250 per application (with 20 applications [$250 × 20 = $5,000]).

III. Comments

We invite comments concerning this IC on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 28, 2012.

Madonna L. Baucum,

Acting Information Collection Clearance Officer, National Park Service.

[FR Doc. 2012–5158 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–HPPC–1220–9136; 4780–NERI–409]

Record of Decision for the General Management Plan/Abbreviated Final Environmental Impact Statement for New River Gorge National River, West Virginia

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service announces the availability of the Record of Decision for the Abbreviated Final Environmental Impact Statement for the General Management Plan for New River Gorge National River, West Virginia. The Record of Decision selects the approved general management plan for New River Gorge National River for the next 15 to 20 years.

ADDRESSES: A printed copy of the Record of Decision may be obtained by contacting Superintendent Don Striker, New River Gorge National River, P.O. Box 246, Glen Jean, West Virginia 25846; (304) 465–0508; *NERI_Superintendent@nps.gov*. An electronic copy of the Record of Decision can be downloaded from the NPS Planning, Environment and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/neri*).

SUPPLEMENTARY INFORMATION: On December 7, 2011, the Regional Director of the National Park Service (NPS) Northeast Region signed the Record of Decision selecting Alternative 5 as the approved General Management Plan for New River Gorge National River. Alternative 5 was identified as the NPS preferred alternative in the General Management Plan and Abbreviated Final Environmental Impact Statement (GMP/EIS) issued on October 7, 2011. The Record of Decision includes:

- A statement of the decision made;
- A synopsis of other alternatives considered;
- The basis for the decision;
- A description of the environmentally preferable alternative;
- A listing of measures to minimize environmental harm; and
- An overview of public involvement in the decision-making process.

The approved General Management Plan will guide long-term management of the New River Gorge National River. As soon as feasible, we will begin to implement the selected alternative.

The purpose of a General Management Plan is to provide a decision-making framework that ensures that management decisions effectively and efficiently carry out our mission for the next 15 to 20 years. The GMP/EIS planning process at New River Gorge National River allowed us to respond to new issues and changing conditions and revise the prior GMP approved in 1982. This planning process was initiated in 2005 and conducted with extensive public and agency involvement. The planning team held meetings with and/or contacted key stakeholders, agencies, tribes, resource experts, and members of the public throughout 2005 and 2006. Stakeholders, agencies, and the interested public were briefed with newsletters and press releases and provided the opportunities to provide input at fifteen public meetings held in 2006 and 2007.

Review Process for the Management Plan and Environmental Impact Statement

Consistent with Federal laws and regulations, and with National Park Service policies, the Draft GMP/EIS was released for public review and comment from January 13, 2010, through April 16, 2010. The Draft GMP/EIS described and analyzed the environmental impact of five alternatives to guide the development and future management of the National River: Alternative 1, the No-Action Alternative, and Action Alternatives 2–5. Action Alternative 5, the NPS Preferred Alternative, would:

- Preserve areas for primitive recreational experiences from end to end of the park;
- Intersperse cultural and interpretive resource focal areas;
- Establish a north-south, through-park connector of scenic roads and trails;
- Develop partnerships with gateway communities; and
- Improve rim-to-river experiences.

Copies of the Draft GMP/EIS were sent to individuals, agencies, tribes, and organizations, and were made available to the public at the park office, by request, and on our Planning, Environment and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/neri*). Public open houses were held on March 9, 10, and 11, 2010 in Hinton, Beckley, and Fayetteville, WV, respectively.

The comments received on the Draft GMP/EIS required only minor responses and editorial corrections; thus, an abbreviated format was used for the Final GMP/EIS. The Abbreviated Final GMP/EIS, issued on October 7, 2011, included an analysis of agency and public comments received on the Draft GMP/EIS with NPS responses, errata sheets detailing editorial corrections to the Draft GMP/EIS, and copies of agency

and substantive public comments. No changes were made to the alternatives or to the impact analysis presented in the Draft GMP/EIS. Therefore, Action Alternative 5 remained as the NPS Preferred Alternative and the environmentally preferred alternative.

Why NPS Selected Alternative 5

We selected Alternative 5 because it best fulfills the purposes of the park and conveys the greatest number of beneficial results in comparison with the other alternatives. The selected alternative:

- Results in major beneficial impacts to natural and scenic resources, primarily as a result of managing large areas of the park as unfragmented backcountry forest.
- Addresses the long-term preservation needs of the park's cultural resources and, through the park's leasing program, provides an income stream for their long-term maintenance.
- Emphasizes primitive recreational experiences throughout the park and along the new through-park connector by linking portions of scenic roads and trails along the length of the park. In the long term, we will develop additional segments of trail limited to hiking/biking only to create a through park trail. New facilities will expand visitor opportunities in the vicinity of river gateway communities and in focal areas.
- Addresses the majority of visitor use issues and provides the greatest direct and indirect economic impact in terms of jobs, earnings, NPS spending, and visitor spending. More aggressive partnering with gateway communities will better enhance relevance of the park to local visitors and better enable us to respond to concerns of local residents about how the park is managed.

The Abbreviated Final GMP/EIS and the Draft GMP/EIS constitute the principal documentation upon which this Record of Decision is based.

Dated: February 10, 2012.

Dennis R. Reidenbach,

Regional Director, Northeast Region, National Park Service.

[FR Doc. 2012–5096 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–YP–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–DENA; 9831–SZP]

Denali National Park and Preserve Aircraft Overflights Advisory Council; Meeting

ACTION: Notice of meeting for the Denali National Park and Preserve Aircraft Overflights Advisory Council within the Alaska Region.

SUMMARY: The National Park Service (NPS) announces a meeting of the Denali National Park and Preserve Aircraft Overflights Advisory Council. The purpose of this meeting is to discuss mitigation of impacts from aircraft overflights at Denali National Park and Preserve. The Aircraft Overflights Advisory Council is authorized to operate in accordance with the provisions of the Federal Advisory Committee Act.

Public Availability of Comments: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the Aircraft Overflights Advisory Council. Each meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after each meeting. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

DATES: The Denali National Park and Preserve Aircraft Overflights Advisory Council meeting will be held on Monday, February 27th and Tuesday, February 28th, 2012, from 9 a.m. to 5 p.m., Alaska Standard Time. The meeting may end early if all business is completed.

Location: Residence Inn Anchorage Midtown, 1025 35th Avenue, Anchorage, AK 99508. Telephone (907) 563–9844.

FOR FURTHER INFORMATION CONTACT: Miriam Valentine, Denali Planning. Email: *Miriam_Valentine@nps.gov*. Telephone: (907) 733–9102 at Denali National Park, Talkeetna Ranger Station, P.O. Box 588, Talkeetna, AK 99676. For accessibility requirements please call Miriam Valentine at (907) 733–9102.

SUPPLEMENTARY INFORMATION: Meeting location and dates may need to be changed based on weather or local circumstances. If the meeting dates and location are changed, notice of the new meeting will be announced on local radio stations and published in local newspapers.

The agenda for the meetings will include the following, subject to minor adjustments:

Monday, February 27th, 2012

1. All day work session with the public.

Tuesday, February 28th, 2012

1. Call to order.
2. Roll Call and Confirmation of Quorum.
3. Chair's Welcome and Introductions.
4. Review and Approve Agenda.
5. Member Reports.
6. Agency and Public Comments.
7. Superintendent and NPS Staff Reports.
8. Agency and Public Comments.
9. Other New Business.
10. Agency and Public Comments.
11. Set time and place of next Advisory Council meeting.
12. Adjournment.

Sue E. Masica,

Regional Director.

[FR Doc. 2012–5099 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–PF–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–0212–9551; 2200–3200–665]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before February 11, 2012. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th Floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by March 19, 2012. Before including your address, phone number, email

address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ALABAMA

Macon County

Tuskegee Veterans Administration Hospital (United States Second Generation Veterans Hospitals), 2400 Hospital Rd., Macon, 12000140

Montgomery County

Montgomery Veterans Administration Hospital Historic District (United States Second Generation Veterans Hospitals), 215 Perry Hill Rd., Montgomery, 12000141

Tuscaloosa County

Tuscaloosa Veterans Administration Hospital Historic District (United States Second Generation Veterans Hospitals), 3701 Loop Rd. E., Tuscaloosa, 12000142

COLORADO

Chaffee County

Behrman Ranch, 31715 US 24 N., Buena Vista, 12000143

Costilla County

Iglesia de San Francisco de Assisi (Culebra River Villages of Costilla County MPS), 23531 Cty. Rd. J.2, San Francisco, 12000144

Montezuma County

Indian Camp Ranch Archeological District, Address Restricted, Cortez, 12000145

Montezuma Valley Irrigation Company Flume No. 6, Approx. 4 mi. E. of Cortez on US 160, Cortez, 12000146

Montrose County

Shavano Valley Rock Art Site (Boundary Increase), Address Restricted, Montrose, 12000147

GEORGIA

Cobb County

Taylor—Brawner House and Brawner Sanitarium, 3180 Atlanta Rd., Smyrna, 12000149

Fulton County

Wynne—Claughton Building, 141 Carnegie Way NW., Atlanta, 12000148

KENTUCKY

Fayette County

Lexington Veterans Administration Hospital (United States Second Generation Veterans Hospitals), 2250 Leestown Rd., Lexington, 12000150

MASSACHUSETTS

Middlesex County

Farley—Hitchinson—Kimball House, 461A & 463 North Rd., Bedford, 12000151

Worcester County

Webster Municipal Buildings Historic District, 350 Main, 29 Negus, & 2 Lake Sts., Webster, 12000152

MISSISSIPPI

De Soto County

North Elm Historic District, Roughly bounded by North, W. Robinson, & Memphis Sts., & Holmes Rd., Hernando, 12000153

Hinds County

Municipal Art Gallery, 839 N. State St., Jackson, 12000154

Washington County

Armitage Herschell Carousel, 323 Main St., Greenville, 12000155

Doe's Eat Place, 502 Nelson St., Greenville, 12000156

Wayne County

Downtown Waynesboro Historic District, Roughly bounded by Station, Spring, Wayne, & Court Sts., Waynesboro, 12000157

Yalobusha County

Water Valley Main Street Historic District, Roughly along Main from Young to Market Sts., Water Valley, 12000158

NEW JERSEY

Salem County

Bayuk, Moshe, House, 984 Gershal Ave. (Pittsgrove Township), Alliance, 12000159

NEW YORK

Genesee County

Batavia Veterans Administration Hospital (United States Second Generation Veterans Hospitals), 222 Richmond Ave., Batavia, 12000160

Ontario County

Canandaigua Veterans Hospital Historic District (United States Second Generation Veterans Hospitals), 400 Fort Hill Ave., Canandaigua, 12000161

WASHINGTON

Jefferson County

Quilcene Ranger Station, 61 Herbert St., Quilcene, 12000162

Snohomish County

Naval Auxiliary Air Station, Arlington (Boundary Increase), 18204 59th Dr. NE., Arlington, 12000163

In the interest of preservation, a three (3) day comment period is requested for the following resource:

ALABAMA

Tuscaloosa County

Tuscaloosa Veterans Administration Hospital Historic District (United States Second Generation Veterans Hospitals), 3701 Loop Rd. E., Tuscaloosa, 12000142

[FR Doc. 2012–5007 Filed 3–1–12; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collection of information associated with bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

DATES: Comments on the proposed information collection activity must be received by May 1, 2012, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 203–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, explanatory information and related forms contact John Trelease, at (202) 208–2783 or via email at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSM will be submitting to OMB for approval. This collection is contained in 30 CFR part 800—Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the

agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR part 800—Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

OMB Control Number: 1029–0043.

Summary: The regulations at 30 CFR part 800 primarily implement § 509 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), which requires that people planning to conduct surface coal mining operations first post a performance bond to guarantee fulfillment of all reclamation obligations under the approved permit. The regulations also establish bond release requirements and procedures consistent with § 519 of the Act, liability insurance requirements pursuant to § 507(f) of the Act, and procedures for bond forfeiture should the permittee default on reclamation obligations.

Bureau Form Number: None.

Frequency of Collection: On Occasion.

Description of Respondents: Surface coal mining and reclamation permittees and State regulatory authorities.

Total Annual Responses: 12,215.

Total Annual Burden Hours: 112,626 hours.

Total Annual Non-wage Costs: $1,510,214.

Dated: February 24, 2012.

Andrew F. DeVito,

Chief, Division of Regulatory Support.

[FR Doc. 2012–4946 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–539–C (Third Review)]

Uranium From Russia

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that termination of the suspended investigation on uranium from Russia would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on July 1, 2011 (76 FR 38694) and determined on October 4, 2011 that it would conduct an expedited review (76 FR 64107, October 17, 2011).

The Commission transmitted its determination in this review to the Secretary of Commerce on February 27, 2012. The views of the Commission are contained in USITC Publication 4307 (February 2012), entitled *Uranium from Russia: Investigation No. 731–TA–539–C (Third Review).*

By order of the Commission.

Issued: February 27, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–5045 Filed 3–1–12; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Deanna Tanner Okun did not participate in this review.

DEPARTMENT OF JUSTICE

Notice of Lodging of Agreement and Order Regarding Modification of Consent Decree as to ARCO Chemical Company and Atlantic Richfield Company Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on February 27, 2012, a proposed Agreement and Order Regarding Modification of Consent Decree as to ARCO Chemical Company and Atlantic Richfield Company (''Consent Decree Modification'') in *United States* v. *Lang,* Civil Action No. 1:94CV57, was lodged with the United States District Court for the Eastern District of Texas.

This action was originally filed on January 28, 1994 by the United States of America (''United States'') under Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') Section 107, 42 U.S.C. 9607, seeking (1) reimbursement of costs (plus accrued interest) incurred by the United States for response actions at the Turtle Bayou Superfund Site (also known as the Petro-Chemical Systems, Inc. Superfund Site) in Liberty County, Texas (''the Site'') and (2) performance of studies and response work at the Site consistent with the National Contingency Plan (''NCP''), 40 CFR part 300. On December 8, 1998, the court entered a Consent Decree as to ARCO Chemical Company and Atlantic Richfield Company (''the 1998 Consent Decree'') which resolved the United States' claims against ARCO Chemical Company and Atlantic Richfield Company. Pursuant to the 1998 Consent Decree, ARCO Chemical Company and Atlantic Richfield Company were obligated to, *inter alia,* perform response activities at the Site and to establish and maintain financial security to demonstrate their ability to complete the required Work. Lyondell Chemical Company is the successor to ARCO Chemical Company under the 1998 Consent Decree. In 2009, Lyondell Chemical Company and certain of its affiliates (collectively ''Debtors'') filed with the United States Bankruptcy Court for the Southern District of New York (''the Bankruptcy Court'') voluntary petitions for relief under Title 11 of the United States Code. In 2010, the United States, Debtors, and various state environmental agencies including the Texas Commission on Environmental Quality (''TCEQ'') entered into an agreement resolving various claims including claims related to the 1998 Consent Decree (''the 2010 Bankruptcy Settlement''). As part of the 2010 Bankruptcy Settlement, the Parties agreed to substitute the Lyondell Environmental Custodial Trust for Lyondell Chemical Company as a party under the 1998 Consent Decree. The proposed Consent Decree Modification would implement the 2010 Bankruptcy Settlement by substituting the Lyondell Environmental Custodial Trust for Lyondell Chemical Company and by clarifying the application of certain Consent Decree provisions to the Lyondell Environmental Custodial Trust. In addition, the proposed Consent Decree Modification would modify the financial assurance provisions of the 1998 Consent Decree.

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 Modification. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed 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. *Lang* D.J. Ref. 90–11–3–709.

During the public comment period, the Consent Decree 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 Second Consent Decree 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 emailing a request to ''Consent Decree Copy'' (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Maureen M. Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–5074 Filed 3–1–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on February 6, 2012, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Dell Services, Plano, TX; Keller ISD, Keller, TX; Maryland State Department of Education, Baltimore, MD; Measured Progress, Dover, NH; Minnesota Department of Education, Division of Research and Assessment, Roseville, MN; Orange County School District, Orlando, FL; Rhode Island Department of Elementary and Secondary Education Office of Instruction, Assessment, and Curriculum, Providence, RI; State of New Hampshire, Office of Curriculum and Assessment, Concord, NH; and Utah State Office of Education, Salt Lake City, UT, have been added as parties to this venture. Also, Wimba, New York, NY, and Giunti Labs, Atlanta, GA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on November 28, 2011. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 21, 2011 (76 FR 79217).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2012–5185 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (OJP) Docket No. 1582]

Hearing of the Attorney General's National Task Force on Children Exposed to Violence

AGENCY: Office of Justice Programs (OJP), Justice.

ACTION: Notice of hearing.

SUMMARY: This is an announcement of the third hearing of the Attorney General's National Task Force on Children Exposed to Violence (the ''task force''). The task force is chartered to provide OJP, a component of the Department of Justice, with valuable advice in the areas of children exposed to violence for the purpose of addressing the epidemic levels of exposure to violence faced by our nation's children. Based on the testimony at four public hearings; comprehensive research; and extensive input from experts, advocates, and impacted families and communities nationwide, the task force will issue a final report to the Attorney General presenting its findings and comprehensive policy recommendations in the fall of 2012.

DATES: The hearing will take place on Monday, March 19, 2012, from 5 p.m. to 7 p.m.; Tuesday, March 20, 2012, from 8:30 a.m. to 5:30 p.m.; and on Wednesday, March 21, 2012, from 8:30 a.m. to 3 p.m.

ADDRESSES: The hearing will take place in the multi-purpose room at the University of Miami Newman Alumni Center, 6200 San Amaro Drive, Coral Gables, Florida, 33146.

FOR FURTHER INFORMATION CONTACT: Will Bronson, Designated Federal Officer (DFO), Deputy Associate Administrator, Child Protection Division, Office of Juvenile Justice & Delinquency Prevention, Office of Justice Programs, 810 7th Street NW., Washington, DC 20531. Phone: (202) 305–2427 [note: this is not a toll-free number]; email: *willie.bronson@usdoj.gov.*

SUPPLEMENTARY INFORMATION: This hearing is being convened to brief the task force members about the issue of children's exposure to violence. The final agenda is subject to adjustment, but it is anticipated that on March 19, there will be two hours of public testimony. On March 20, there will be a morning and afternoon session, with a break for lunch. The morning session will likely include welcoming remarks, introductions, and panel presentations from invited guests on the impact of children's exposure to violence. The afternoon session will likely include a working meeting of the task force. On the morning of March 21, there will be a facilitated roundtable discussion with task force members and invited guests, followed by a break for lunch. The afternoon session will likely be devoted to a working meeting of task force members.

This meeting is open to the public. Members of the public who wish to attend this meeting must provide photo identification upon entering the hearing facility. Access to the meeting will not be allowed without identification. Public testimony must be provided in person and will be limited to five (5) minutes per witness. Those wishing to provide public testimony during the hearing should register with Will Bronson at *defendingchildhoodtaskforce*

@nccdcrc.org at least seven (7) days in advance of the meeting. Registrations will be accepted on a space-available basis. Testimony will not be allowed without prior registration. Please bring photo identification and allow extra time prior to the meeting for your arrival.

Anyone requiring special accommodations should notify Mr. Bronson at least seven (7) days in advance of the meeting.

Written Comments: The Department strongly encourages interested parties and organizations to submit written comments and testimony for review by the task force by April 24, 2012, to Will Bronson, Designated Federal Official for the task force, at *defendingchildhood taskforce@nccdcrc.org.* The task force expects that any public statements presented by individuals/organizations during the public comment portion of the hearing will not repeat previously submitted statements.

Catherine Pierce,

Associate Administrator, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Child Protection Division.

[FR Doc. 2012–5169 Filed 3–1–12; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2012 Allowable Charges for Agricultural Workers' Meals and Travel Subsistence Reimbursement, Including Lodging

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice and clarification of policy.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this Notice to announce the allowable charges for 2012 that employers seeking H–2A workers may charge their workers when the employer provides three meals a day, and the maximum meal reimbursement which a worker with receipts may claim. The Department is also providing clarification on the issue of overnight lodging costs as part of required subsistence, where necessary.

DATES: *Effective Date:* This notice is effective March 2, 2012.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification (OFLC), U.S. Department of Labor, Room C–4312, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States (U.S.) Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H–2A labor certification. The H–2A labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified, and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5) and (6).

Allowable Meal Charge

Among the minimum benefits and working conditions which the Department requires employers to offer their U.S. and H–2A workers are three meals a day or free and convenient cooking and kitchen facilities. 20 CFR 655.122(g). Where the employer provides the meals, the job offer must state the charge, if any, to the worker for such meals.

The Department provides, at 20 CFR 655.173(a), the methodology for determining the maximum amounts that H–2A agricultural employers may charge their U.S. and foreign workers for providing them with three meals per day. This methodology provides for annual adjustments of the previous year's maximum allowable charge based upon updated Consumer Price Index (CPI) data. The maximum charge allowed by 20 CFR 655.122(g) is adjusted by the same percentage as the 12 month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food). The OFLC Certifying Officer may also permit an employer to charge workers a higher amount for providing them with three meals a day, if the higher amount is justified and sufficiently documented by the employer, as set forth in 20 CFR 655.173(b).

The Department has determined the percentage change between December of 2010 and December of 2011 for the CPI–U for Food was 3.7 percent. Accordingly, the maximum allowable charge under 20 CFR 655.122(g) shall be no more than $11.13 per day, unless the OFLC Certifying Officer approves a higher charge as authorized under 20 CFR 655.173(b).

Reimbursement for Daily Travel Subsistence

The regulations at 20 CFR 655.122(h) establish that the minimum daily travel subsistence expense, for which a worker is entitled to reimbursement, is equivalent to the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.122(g).

The maximum meals component of the daily travel subsistence expense is based upon the standard minimum Continental United States (CONUS) per diem rate as stated by the General Services Administration (GSA) at 41 CFR part 301, appendix A. The CONUS meal component remains $46.00 per day. Workers who qualify for travel reimbursement are entitled to reimbursement for meals up to the CONUS meal rate when they provide receipts. In determining the appropriate amount of reimbursement for meals for less than a full day, the employer may provide for meal expense reimbursement, with receipts, to 75 percent of the maximum reimbursement for meals of $34.50, as provided for in the GSA per diem schedule. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.122(g) as specified above.

The Department also wishes to restate its policy on lodging during travel to and from the worksite. An employer is responsible for providing, paying in advance, or reimbursing a worker for the reasonable costs of transportation and daily subsistence between the employer's worksite and the place from which the worker comes to work for the employer, if the worker completes 50 percent of the work contract period, and upon the worker completing the contract, return costs. In those instances where a worker must travel to obtain a visa so that the worker may enter the U.S. to come to work for the employer, the employer must pay for the transportation and daily subsistence costs of that part of the travel as well. The Department has traditionally interpreted the regulation to require the employer to assume responsibility for the reasonable costs associated with the worker's travel, including transportation, food, and, in those instances where it is necessary, lodging. If not provided by the employer, the amount an employer must pay for

transportation and, where required, lodging must be no less than (and is not required to be more than) the most economical and reasonable costs. The employer is responsible for those costs necessary for the worker to travel to the worksite if the worker completes 50 percent of the work contract period, but is not responsible for unauthorized detours, and if the worker completes the contract, return transportation and subsistence costs, including lodging costs where necessary. This policy applies equally to instances where the worker is traveling within the U.S. to the employer's worksite. For further information on when the employer is responsible for lodging costs, see the FAQ on travel costs at the OFLC Web site at *http://www.foreignlaborcert.doleta.gov/*.

Signed in Washington, DC, this 28th day of February 2012.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2012–5243 Filed 2–29–12; 4:15 pm]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Wage and Hour Division

Announcement of Public Briefings on the Changes to the Labor Certification Process for the Temporary Non-Agricultural Employment of H–2B Aliens in the United States

AGENCIES: Employment and Training Administration and Wage and Hour Division; Department of Labor.

ACTION: Notice of Meeting and Webinars.

SUMMARY: On February 21, 2012, the Department of Labor (the Department or DOL) published a Final Rule to amend the H–2B regulations at 20 CFR part 655 governing the certification of temporary employment of nonimmigrant workers in temporary or seasonal non-agricultural employment. See Temporary Non-Agricultural Employment of H–2B Aliens in the United States, Final Rule, 76 FR 10038, Feb. 21, 2012 (the H–2B Final Rule). The Department's H–2B Final Rule also created new regulations at 29 CFR part 503 to provide for enhanced enforcement under the H–2B program requirements should employers fail to meet their obligations under the H–2B program. The Department has also made changes to the *Application for Temporary Employment Certification,* ETA Form 9142 (OMB Control No. 1205–0466). The H–2B Final Rule is scheduled to become effective on April 23, 2012.

The Department has scheduled three webinars and one public briefing to educate stakeholders, program users, and other interested members of the public on changes to the H–2B program made by the H–2B Final Rule and on applying for H–2B temporary labor certifications under the new regulations using the modified ETA Form 9142.

As currently planned, the sessions will take place in March and early April, 2012. The in-person briefing will be held at DOL in Washington, DC This notice provides the public with dates, location, and registration information regarding the webinars and public briefing. These informational sessions are subject to change and/or cancellation without further notice in the **Federal Register**. However, the Department will post any changes related to the webinars on the Office of Foreign Labor Certification Web site at: *http://www.foreignlaborcert.doleta.gov/* and will notify registered participants of any changes to the in-person briefing. Please note that the capacity of each webinar is limited to 200 concurrent participants. Ability to log in to a webinar session is established on a first-come, first-served basis; please note that all the webinars will cover essentially the same information. Participants will be able to log in approximately 30 minutes prior to the official start of the webinar listed below. We encourage organizations or other groups of participants to access the webinars at a single, centralized location to maximize attendance.

DATES: The webinars and briefing dates are:

1. Wednesday, March 14, 2012, Webinar.
Time: 1:30 p.m.–4 p.m. Eastern Daylight Time.
2. Tuesday, March 20, 2012, Webinar.
Time: 1:30 p.m.–4 p.m. Eastern Daylight Time.
3. Tuesday, March 27, 2012, Webinar.
Time: 1:30 p.m.–4 p.m. Eastern Daylight Time.
4. Tuesday, April 17, 2012, In-person briefing in Washington, DC
Time: 10 a.m.–3 p.m. Eastern Daylight Time. Check-in of registered participants will begin onsite at 9 a.m.

ADDRESSES: The meeting locations are:

Webinars

1. *To join the Webinars, please follow these steps:*

To join the March 14 Webinar, please go to:

https://dol.webex.com/dol/onstage/g.php?d=646230663&t=a&EA=erskine.timothy%40dol.gov&ET=2d120e21c0cb4635d8f0bd3e97c6ca60&ETR=915808b73610795947a9ea7bf97313de&SourceId=b8f4e0b12f35fcede040fc0a0f8423ac&RT=MiMxMQ==&p

And click ''Join Now''. To join the March 20 Webinar, please go to:

https://dol.webex.com/dol/onstage/g.php?d=647498716&t=a&EA=erskine.timothy%40dol.gov&ET=c9e80572b4c79ccf5cd558e1c8de99e2&ETR=aa513badddf52796a18d716d83edb8fd&SourceId=b8f4a81c5ebcd5a8e040fc0a10846718&RT=MiMxMQ==&p

And click ''Join Now''.

To join the March 27 Webinar, please go to:

https://dol.webex.com/dol/onstage/g.php?d=644379778&t=a&EA=erskine.timothy%40dol.gov&ET=9adf21361097d9035af79e481ed0f923&ETR=59fcba3eed369d888cc6207ddb37bd2a&SourceId=b8f4a81c5ec6d5a8e040fc0a10846718&RT=MiMxMQ==&p

And click ''Join Now''.

2. If a Security Information message appears, click ''Run'' or ''Yes''.
3. Enter your name and email address.
4. Click ''Join Now''.

In-Person Briefing

Washington DC—DOL Auditorium, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

This venue will accommodate 100 participants. All visitors should enter the building at the visitors' entrance at 3rd and D Streets, NW and must bring with them a government-issued ID to gain access to the building.

FOR FURTHER INFORMATION CONTACT: For further information regarding the Employment and Training Administration's portion of the briefings, contact William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, Employment and Training Administration, 200 Constitution Avenue NW., Room C–4312, Washington, DC 20210; Telephone: (202) 693–3010 (this is not a toll-free number).

For further information regarding the Wage and Hour Division's portion of the briefings, contact Jim Kessler, Branch Chief of Immigration and Farm Labor, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–3510, Washington, DC 20210; Telephone (202) 693–0070 (this is not a toll-free number).

Please do not call these offices to register as they cannot accept registrations.

SUPPLEMENTARY INFORMATION:

To Join the Webinars: Please follow the instructions above. During the webinar, you will have an opportunity to email questions. If you wish to submit your question ahead of time, you can email it to: *H–2B.Regulation@dol.gov.*

In addition, participants must dial a toll-free number to hear the conversation. The toll-free number to call is 888–810–9161 and the passcode is 7393731. (Please note that due to the large number of participants, callers will not have the ability to ask questions over the phone line. As noted above, the webinars, including the phone lines, will be limited to the first 200 participants.)

To Register for the In-Person Briefing: To register for the in-person briefing session please email your intent to *April17.Briefing@dol.gov.* Please include your name (last name, first name, middle initial), your organization's name, and your contact information (phone/fax/email). Due to space considerations, attendance will be limited to those who register on a first-come, first-served basis. Participants will be notified that their registration has been processed. When we reach full capacity for the auditorium, the Department will post a notice on the Office of Foreign Labor Certification Web site at: *http://www.foreignl aborcert.doleta.gov/to* notify the public that the registration period has closed. We will also notify participants if this event is cancelled or in the event of any changes.

This information should be used by any member of the public planning to attend a webinar or the briefing session.

Dated: February 24, 2012.

Jane Oates,

Assistant Secretary for Employment and Training.

Nancy Leppink,

Deputy Administrator, Wage and Hour Division.

[FR Doc. 2012–5159 Filed 3–1–12; 8:45 am]

BILLING CODE 4510–FP–P

LIBRARY OF CONGRESS

Copyright Royalty Board

Notice of Intent To Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges are announcing receipt of two notices of intent to audit the 2009, 2010, and 2011 statements of account submitted by Digitally Imported, Inc., and Beasley Broadcast Group, Inc., concerning the royalty payments made by each pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: LaKeshia Keys, Program Specialist, by telephone at (202) 707–7658 or email at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to perform publicly sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, this right is limited by two statutory licenses. The section 114 license allows the public performance of sound recordings by means of digital audio transmissions by nonexempt noninteractive digital subscription services and eligible nonsubscription services. 17 U.S.C. 114(f). The second license allows a service to make any necessary ephemeral reproductions to facilitate the digital transmission of the sound recording. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR part 380. As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the organization charged with collecting the royalty payments and statements of account submitted by eligible nonsubscription services such as, among others, Commercial Webcasters and Broadcasters, and distributing the royalties to the copyright owners and performers entitled to receive such royalties under the section 112 and 114 licenses. 37 CFR 380.4(b)(1) (Commercial Webcasters), 380.13(b)(1) (Broadcasters). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year for the purpose of verifying their royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee to be audited. 37 CFR 380.6(c), 380.15(c).

On February 15, 2012, SoundExchange filed with the Judges separate notices of intent to audit Digitally Imported, Inc., a Commercial Webcaster, and Beasley Broadcast Group, Inc., a Broadcaster, for the years 2009, 2010, and 2011. Sections 380.6(c) and 380.15(c) require the Judges to publish a notice in the **Federal Register** within 30 days of receipt of the notice announcing the Collective's intent to conduct an audit.

In accordance with §§ 380.6(c) and 380.15(c), the Copyright Royalty Judges are publishing today's notice to fulfill this requirement with respect to SoundExchange's respective notices of intent to audit Digitally Imported, Inc., and Beasley Broadcast Group, Inc., each filed February 15, 2012.

Dated: February 28, 2012.

James Scott Sledge,

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2012–5124 Filed 3–1–12; 8:45 am]

BILLING CODE 1410–72–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 76 FR 74830, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science

Foundation, 725–17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne Plimpton, the NSF Reports Clearance Officer, phone (703) 292–7556, or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Conflict of Interest Policies.

OMB Control No.: 3145–NEW.

Proposed Project: The National Science Foundation (NSF) is an independent Federal agency created by the National Science Foundation Act of 1950, as amended (42 USC 1861–75). The Act states the purpose of the NSF is ''to promote the progress of science; [and] to advance the national health, prosperity, and welfare by supporting research and education in all fields of science and engineering.''

NSF has had a unique place in the Federal Government: It is responsible for the overall health of science and engineering across all disciplines. In contrast, other Federal agencies support research focused on specific missions such as health or defense. The Foundation also is committed to ensuring the nation's supply of scientists, engineers, and science and engineering educators.

NSF funds research and education in most fields of science and engineering. It does this through grants and cooperative agreements to more than 2,000 colleges, universities, K–12 school systems, businesses, informal science organizations and other research organizations throughout the US. The Foundation accounts for about one-fourth of Federal support to academic institutions for basic research.

NSF proposes to conduct a survey to determinate how NSF grantees identify, oversee, and manage financial conflicts of interest in research funded by NSF. This survey focuses on NSF's grantee's conflict of interest policies and procedures, and on any conflicts of interest that were identified and managed during FY 2010. By examining how NSF grantees have identified and managed their financial conflicts of interest, this survey will help the Foundation determine whether there are any areas for improvement in NSF's policies and guidelines.

Use of the Information: Analysis of the responses is necessary to determine whether there are any areas for improvement in NSF's policies and guidelines.

Respondents:

Burden on the Public: The Foundation estimates about 175 responses at approximately 15 hours per response; this computes to approximately 2625 burden hours annually.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2012–5075 Filed 3–1–12; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0202; Docket Nos.: 50–245, 50–336 and 50–423]

Millstone Power Station, Units 1, 2 and 3, Dominion Nuclear Connecticut, Inc.; Exemption

1.0 Background

Dominion Nuclear Connecticut, Inc. (DNC or the licensee) is the holder of Facility Operating License Nos. DRP–21, DPR–65 and NPF–49, which authorize operation of the Millstone Power Station, Unit Nos. 1, 2 and 3 (Millstone), respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of one boiling water reactor and two pressurized-water reactors located in New London County, Connecticut. The boiling water reactor is permanently shut down.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 26, ''Fitness For Duty Programs,'' Subpart I, ''Managing Fatigue,'' requires that individuals described in 10 CFR 26.4(a)(1) through (a)(5) are subject to the work hour controls provided in 10 CFR 26.205. By letter dated February 10, 2011,[1] supplemented by letters dated March 10, 2011, and February 6, 2012,[2] and pursuant to 10 CFR 26.9, DNC, doing business as Dominion, requested an exemption from the requirements of 10 CFR 26.205(c) and (d) during declarations of severe weather conditions such as tropical storm and hurricane force winds at the Millstone site. A subsequent response to requests for additional information (RAI) is dated August 31, 2011.[3]

The requested exemption applies to individuals who perform duties identified in 10 CFR 26.4(a)(1) through (a)(5) who are designated to perform work as a member of the Millstone hurricane response organization (HRO). The exemption request states that the station HRO typically consists of enough individuals to staff two 12-hour shifts of workers consisting of personnel from operations, maintenance, engineering, emergency planning, radiation protection, chemistry, site services and security to maintain the safe and secure operation of the plant.

Entry conditions for the requested exemption occur when the site activates the Station Hurricane Command Center and the Site Vice President (or his designee) determines that travel conditions to the site will potentially become hazardous such that HRO staffing will be required—based on verifiable weather conditions. Verifiable weather conditions are defined in the exemption request as when the National Weather Service issues an Inland High Wind Warning for Hurricane Force Winds for New London County or when the Dominion Weather Center projects tropical storm or hurricane force winds onsite within 12 hours.

After the high wind conditions pass, wind damage to the plant and surrounding area might preclude a sufficient number of individuals from immediately returning to the site. Additionally, if mandatory civil evacuations were ordered, this would delay the return of sufficient relief personnel. The exemption request states that the exemption will terminate when hurricane watches and warnings or inland hurricane watches and warnings have been cancelled; when weather

[1] Agencywide Documents Access and Management System (ADAMS) Accession No. ML110450583.

[2] ADAMS Accession Nos. ML110740442 and ML12047A143, respectively.

[3] ADAMS Accession No. ML11250A168.

conditions and highway infrastructure support safe travel; and when the Site Vice President or his designee determine that sufficient personnel who perform the duties identified in 10 CFR 26.4(a)(1) through (a)(5) are available to restore normal shift rotation and thereby meet the requirements of 10 CFR 26.205(c) and (d).

3.0 Discussion

Pursuant to 10 CFR 26.9, the Commission may, upon application of an interested person or on its own initiative, grant exemptions from the requirements of 10 CFR Part 26 when the exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

Authorized by Law

The exemption being requested for Millstone would, as noted above, allow the Millstone site to not meet the work hour control requirements of 10 CFR 26.205(c) and (d), which would allow the site to sequester specific individuals on site, prior and subsequent to severe weather conditions such as tropical storms and hurricanes. No law exists which precludes the activities covered by this exemption request. As stated above, 10 CFR 26.9 allows the NRC to grant exemptions from the requirements of 10 CFR Part 26. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, NRC approval of the licensee's exemption request is authorized by law.

No Endangerment of Life or Property and Otherwise in the Public Interest

This exemption request expands on an exception that is already provided in 10 CFR Part 26, during declared emergencies, and allows the licensee to not meet the requirements in 10 CFR 26.205(c) and (d) during time periods just prior and subsequent to the existing exception (10 CFR 26.207(d)). Granting this exemption will allow the licensee to ensure that the control of work hours does not impede the ability to use whatever staff resources may be necessary to respond to a severe weather event to ensure the plant reaches and maintains a safe and secure status. Therefore, this exemption will not endanger life or property or the common defense and security. Thus, this exemption request is in the interest of the public health and safety.

The Fatigue Management provisions found in 10 CFR part 26 Subpart I are designed as an integrated approach to managing both cumulative and acute fatigue through a partnership between licensees and individuals. It is the responsibility of the licensee to provide training to individuals regarding fatigue management. It is also the responsibility of the licensee to provide covered workers with work schedules that are consistent with the objective of preventing impairment from fatigue due to duration, frequency or sequencing of successive shifts. Individuals are required to remain fit-for-duty while at work.

- Section 26.205(c) is the requirement to schedule individuals work hours consistent with the objective of preventing impairment from fatigue due to duration, frequency or sequencing of successive shifts. The requirement to schedule is important as the work hour controls, contained in 10 CFR 26.205, are not necessarily sufficient to ensure that individuals will not be impaired owing to the effects of fatigue.
- Section 26.205(d) provides the actual work hour controls. Work hour controls are limits on the number of hours an individual may work; limits on the minimum break times between work periods; and limits for the minimum number of days off an individual must be given.
- Section 26.205(b) is the requirement to count work hours and days worked. Section 26.205(d)(3) is the requirement to look back into the ''calculation period'' so that all work hours can be included in appropriate work hour calculations, when a covered individual resumes covered work.
- Section 26.207(d) provides an allowance for licensees to not meet the requirements of 10 CFR 26.205(c) and (d) during declared emergencies as defined in the licensee's emergency plan.

Millstone is located in the Town of Waterford, New London County, Connecticut, on the north shore of Long Island Sound. The 50-mile segment of coastline on which Millstone is located was crossed by 5 hurricanes during a period of approximately 84 years. Due to the location of the plant and its proximity to the aforementioned coastline, there is a sufficient likelihood of hurricane watches and warnings or inland hurricane wind watches and warnings impacting the site. The proposed exemption would support effective response to severe weather conditions when travel to and from Millstone may not be safe.

During these times, the Millstone HRO staff typically consists of enough individuals to staff two 12-hour shifts of workers consisting of personnel from operations, maintenance, engineering, emergency planning, radiation protection, chemistry, site services and security to maintain the safe and secure operation of the plant. This exemption would be applied to the period established by the entry and exit conditions regardless of whether the Emergency Plan is entered or not. Therefore, Millstone's exemption request can be characterized as having three parts: (1) High-wind exemption encompassing the period starting with the initiating conditions to just prior to declaration of an unusual event, (2) a period defined as immediately following a high-wind condition, when an unusual event is not declared, but when a recovery period is still required, and (3) a recovery exemption immediately following an existing 10 CFR 26.207(d) exception as discussed above. Once Millstone has entered into a high-wind exemption or 10 CFR 26.207(d) exception, it would not need to make a declaration that it is invoking the recovery exemption.

As a tropical storm or hurricane approaches landfall, high wind speeds—in excess of wind speeds that create unsafe travel conditions—are expected. The National Hurricane Center defines a hurricane warning as an announcement that hurricane conditions (sustained winds of 74 mph or higher) are expected somewhere within the specified coastal area within a 24-hour period. Severe wind preparedness activities become difficult once winds reach tropical storm force. A tropical storm warning is issued 36 hours in advance of the anticipated onset of tropical-storm-force winds (39 to 73 mph). Lessons learned that are included in NUREG–1474, ''Effect of Hurricane Andrew on the Turkey Point Nuclear Generating Station from August 20–30, 1992,'' include the acknowledgement that detailed, methodical preparations should be made prior to the onset of hurricane force winds. The NRC staff finds the Millstone proceduralized actions are consistent with those lessons learned.

The licensee's RAI response letter of August 31, 2011, states that the HRO shift start times will be pre-planned before the arrival of severe weather onsite and will emphasize the need for consistent work shift start times to better facilitate fatigue management. The RAI response also states that the hurricane response plan (nuclear) (HRP–N) will be updated to include that the HRO staff will be provided with an opportunity for restorative rest of at least 10 hours when off and that these individuals will not be assigned any duties when off shift. The updated HRP–N was provided by letter dated

February 6, 2012, and included the opportunity for restorative rest for the HRO staff.

The exemption request specifies that the exemption is not for discretionary maintenance activities. The exemption request states that the exemption would provide for use of whatever plant staff and resources may be necessary to respond to a plant emergency and ensure that the units achieve and maintain a safe and secure status and can be safely restarted. The exemption request also states that maintenance activities for structures, systems and components that are significant to public health and safety will be performed, if required. The NRC staff finds the exclusion of discretionary maintenance from the exemption request to be consistent with the intent of the exemption.

In its exemption request, the licensee committed to maintain the following guidance in a Millstone site procedure:

- The conditions necessary to sequester site personnel that are consistent with the conditions specified in this exemption request.
- The provisions for ensuring that personnel who are not performing duties are provided an opportunity, as well as accommodations, for restorative rest.
- The condition for departure from this exemption, consistent with the Site Vice President's (or his designee's) determination that adequate staffing is available to meet the requirements of 10 CFR 26.205(c) and (d).

When the exemption period(s) ends, the licensee is immediately subject to the scheduling requirements of 10 CFR 26.205(c) and the work hour/rest break/days off requirements of 10 CFR 26.205(d), and must ensure that any individual performing covered work complies with these requirements. 10 CFR 26.205(d)(3) requires the licensee to ''look back'' over the calculation period and count the hours the individual has worked and the rest breaks and days off he/she has had, including those that occurred during the licensee-declared emergency. Hours worked must be below the maximum limits and rest breaks must be above the minimum requirements in order for the licensee to allow the individual to perform covered work. Days off and hours and shifts worked during the licensee-declared emergency and the exempted period before and after the declared emergency would be counted as usual in the establishment of the applicable shift schedule and compliance with the minimum-days-off requirements.

Granting these exemptions is consistent with 10 CFR 26.207(d) Plant Emergencies which allows the licensee to not meet the requirements of 10 CFR 26.205(c) and (d) during declared emergencies as defined in the licensee's emergency plan. The Part 26 Statement of Considerations, page 17148 states that, ''[p]lant emergencies are extraordinary circumstances that may be most effectively addressed through staff augmentation that can only be practically achieved through the use of work hours in excess of the limits of § 26.205(c) and (d).'' The objective of the exemption is to ensure that the control of work hours do not impede a licensee's ability to use whatever staff resources may be necessary to respond to a plant emergency and ensure that the plant reaches and maintains a safe and secure status. The actions described in the exemption request and submitted procedures are consistent with the recommendations in NUREG–1474. Also consistent with NUREG–1474, NRC staff expects the licensee would have completed a reasonable amount of hurricane preparation prior to the need to sequester personnel, in order to minimize personnel exposure to high winds.

The NRC staff has reviewed the exemption request from certain work hour controls during conditions of high winds and recovery from high wind conditions. Based on the considerations discussed above, the NRC staff has concluded that (1) there is a reasonable assurance that the health and safety of the public will not be endangered by the proposed exemption, (2) such activities will be consistent with the Commission's regulations and guidance, and (3) the issuance of the exemption will not be contrary to the common defense and security or to the health and safety of the public.

Consistent With Common Defense and Security

This change has no relation to security issues. Therefore, the common defense and security is not impacted by this exemption.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.9, granting an exemption to the licensee from the requirements in 10 CFR 26.205(c) and (d) during severe wind events such as tropical storms and hurricanes and bounded by the entry and exit conditions of the exemption request, by allowing Millstone to sequester individuals to ensure the plant reaches and maintains a safe and secure status, is authorized by law and will not endanger life or property and is otherwise in the public interest. Therefore, the Commission hereby grants DNC an exemption from the requirements of 10 CFR 26.205(c) and (d) during periods of severe winds at the Millstone site.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as published in the **Federal Register** on August 31, 2011 (76 FR 54260).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 24th day of February 2012.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–5148 Filed 3–1–12; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339; NRC–2012–0051; License Nos. NPF–4 and NPF–7]

Virgina Electric and Power Company; Receipt of Request for Action

Notice is hereby given that by petition dated September 8, 2011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML11256A019), as supplemented by letters dated September 8, 2011 (ADAMS Accession No. ML11334A152), and October 21, 2011 (ADAMS Accession No. ML11308A016), Thomas Saporito (the petitioner) requests that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take action with regard to Virginia Electric and Power Company's (the licensee's) North Anna Power Station, Units 1 and 2 (North Anna 1 and 2). The petitioner requests that the NRC:

(1) Take escalated enforcement action against the licensee and suspend, or revoke, the operating licenses for North Anna 1 and 2;

(2) Issue a notice of violation against the licensee with a proposed civil penalty in the amount of 1 million dollars; and

(3) Issue an order to the licensee requiring the licensee to keep North Anna 1 and 2, in a ''cold shutdown'' mode of operation until such time as a series of actions described in the petition are completed.

As the basis for this request, the petitioner states that:

(1) On August 23, 2011, North Anna 1 and 2, automatically tripped offline as

a direct result of ground motion caused by an earthquake centered in Mineral, Virginia, approximately 10 miles from North Anna 1 and 2. The licensee has not determined the root cause of this event, nor has it explained why the reactor tripped on ''negative flux rate'' rather than on loss of offsite power.

(2) Subsequent to the earthquake, the licensee initiated various inspection activities and tests to discover the extent of damage to the nuclear facility, but these inspection and testing activities continue and remain incomplete and non-validated.

(3) The licensee had set an overly aggressive schedule for restarting North Anna 1 and 2 that was based on economic considerations rather than safety.

(4) The licensee needs to amend its licensing documents, including its licenses and the updated facility analysis report. As a result of ground motion experienced at, and damage sustained to, North Anna 1 and 2, due to the earthquake of August 23, 2011, which is greater than the licensee's design and safety bases, North Anna 1 and 2, are in an unanalyzed condition and current licensing documents are erroneous and incomplete. As a result, the licensee cannot rely on them to provide reasonable assurance to the NRC that these nuclear reactors can be operated in a safe and reliable manner to protect public health and safety.

(5) The licensee needs to conduct new seismic and geological evaluations of the North Anna 1 and 2, site that are independent. These evaluations should ascertain the degree and magnitude of future earthquake events and address a ''worst case'' earthquake.

(6) There are numerous issues with the seismic instrumentation at North Anna 1 and 2, including lack of free field instrumentation, issues associated with conversion of analog data to digital data, issues with lack of on-site personnel with sufficient training in seismic measurements, and potential skewing of ground motion data due to the location of the ''scratch plates.''

(7) Retrofitting of North Anna 1 and 2, is required due to damage to North Anna 1 and 2, from the earthquake of August 23, 2011.

(8) There are concerns with the impact of the August 23, 2011, earthquake on the North Anna 1 and 2, Independent Spent Fuel Storage Installation (ISFSI) including the fact that 25 casks weighing over 115 tons were not supposed to shift as much as 4.5 inches during a predicted earthquake, validation of the integrity of the seals inside the spent fuel casks, assessing whether spent nuclear fuel storage facilities could topple or otherwise sustain significant damage resulting in a release, and assessing whether the licensee's emergency plans adequately addressed damage to the ISFSI as a result of a severe earthquake.

(9) The petitioner is concerned that the licensee cannot be trusted to communicate reliable information to the public or the regulator based on the fact that the licensee in the 1970s failed to promptly disclose the discovery of geological information and was subjected to a monetary fine for the violation.

The request is being treated pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 2.206, ''Requests for action under this subpart,'' of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by § 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner met with the NRR petition review board on September 29, 2011 (transcript at ADAMS Accession No. ML11332A046), and November 7, 2011 (transcript at ADAMS Accession No. ML113530035), to discuss the petition. The results of these discussions were considered in the PRB's final recommendation to accept the petition for review and in establishing the schedule for the review of the petition.

A copy of the petition is available for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the NRC's 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 by telephone at 1–800–397–4209 or 301–415–4737, or by email to *PDR Resource@nrc.gov*

Dated at Rockville, Maryland, this 22nd day of February, 2012.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2012–5150 Filed 3–1–12; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2012–17; Order No. 1261]

International Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to enter into an additional International Business Reply Service contract. This document invites public comments on the request and addresses several related procedural steps.

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.

DATES: *Comments are due:* March 6, 2012.

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:

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I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On February 24, 2012, the Postal Service filed a notice announcing that it has entered into an additional International Business Reply Service (IBRS) contract.[1] The Postal Service asserts that the instant contract is functionally equivalent to the IBRS 3 baseline contract originally filed in Docket Nos. MC2011–21 and CP2011–59 and supported by Governors' Decision No. 08–24 (IBRS 3 baseline contract). *Id.,* Attachment 3. The notice explains that Order No. 684, which established IBRS Competitive Contracts 3 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1–2.

[1] Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, February 24, 2012 (notice).

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5, and states that the instant contract is also in compliance with Order No. 178. The instant contract will remain in effect until 1 year after its effective date, unless termination of the agreement occurs earlier. *Id.* The Postal Service shall notify the mailer of the effective date of the instant contract within 30 days of its approval by the Commission. *Id.,* Attachment 1 at 4. The instant contract may be terminated by either party upon 30 days' written notice. *Id.,* Attachment 1 at 10.

In support of its notice, the Postal Service filed four attachments as follows:

- Attachment 1—a redacted copy of the contract and applicable annexes;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–24, which establishes prices and classifications for IBRS contracts, a description of applicable IBRS contracts, formulas for prices, an analysis of the formulas, a certification as to the formulas for prices offered under applicable IBRS contracts, and certification of the Governors' vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contract and file supporting documents under seal.

The notice enumerates the reasons why the instant IBRS Competitive Contract allegedly fits within the Mail Classification Schedule language for IBRS Competitive Contract 3. The Postal Service identifies general contract terms that distinguish the instant contract from the IBRS 3 baseline contract, such as (1) a revised sentence in Article 15 stating that the Postal Service may be required to file information in connection with the contract in other Commission dockets; and (2) an additional Article 30 concerning intellectual property, co-branding, and licensing. *Id.* at 5. The Postal Service states that the differences affect neither the fundamental service that the Postal Service is offering nor the fundamental structure of the contract. *Id.*

The Postal Service concludes that its filing demonstrates that the new IBRS contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the IBRS 3 baseline contract filed in Docket Nos. MC2011–21 and CP2011–59. *Id.* at 6. Therefore, it requests that the instant contract be included within the IBRS Competitive Contract 3 (MC2011–21) product. *Id.*

II. Notice of Filing

The Commission establishes Docket No. CP2012–17 for consideration of matters related to the contract identified in the Postal Service's notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3633 and 39 CFR 3015.5. Comments are due no later than March 6, 2012. The public portions of this filing can be accessed via the Commission's Web site, *http://www.prc.gov.*

The Commission appoints James F. Callow to serve as Public Representative in the captioned proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2012–17 for consideration of matters raised by the Postal Service's notice.
2. Comments by interested persons in this proceeding are due no later than March 6, 2012.
3. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
4. The Secretary shall arrange for publication of this order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–5161 Filed 3–1–12; 8:45 am]

BILLING P

POSTAL REGULATORY COMMISSION

Notice of Sunshine Act Meetings

DATES: *Time and Date:* Wednesday, March 14, 2012, at 11 a.m.

PLACE: Commission Hearing Room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open session will be audiocast. The audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.* A period for public comment will be offered following consideration of the last numbered item in the open session.

MATTERS TO BE CONSIDERED: The agenda for the Commission's March 14, 2012 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC: 1. Report on legislative activities.

2. Report on status of Commission dockets.
3. Report from the Office of the Secretary and Administration.
4. Report on analytical tools used by Commission staff.
5. Report on international activities and inbound international mail revenues and costs.
6. Strategic overview of the military postal service.

Chairman's public comment period.

PORTION CLOSED TO THE PUBLIC:

7. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

By the Commission.

Dated: February 29, 2012.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–5294 Filed 2–29–12; 4:15 pm]

BILLING CODE 7710–FW–P

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb appendix, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held commencing 6:30 p.m. on Wednesday, March 14, 2012, at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are to take action on the minutes of a previous Board meeting, to take action on forming Board Committees, to provide the Chairperson's report, to provide the Executive Director's report, to provide partners' reports, to provide program updates, and to receive public comment on other matters in accordance with the Trust's Public Outreach Policy.

Individuals requiring special accommodation at this meeting, such as

needing a sign language interpreter, should contact Mollie Matull at 415.561.5300 prior to March 9, 2012.

Times: The meeting will begin at 6:30 p.m. on Wednesday, March 14, 2012.

ADDRESSES: The meeting will be held at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Karen Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: 415.561.5300.

Dated: February 27, 2012.

Karen A. Cook,

General Counsel.

[FR Doc. 2012–5156 Filed 3–1–12; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: US Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation AC; OMB Control No. 3235–0575; SEC File No. 270–517.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in the following rule: Regulation Analyst Certification (AC) (17 CFR 242.500–505), under the Securities Exchange Act of 1934 (15 U.S.C 78a *et seq.*).

Regulation AC requires that research reports published, circulated, or provided by a broker or dealer or covered person contain a statement attesting that the views expressed in each research report accurately reflect the analyst's personal views and whether or not the research analyst received or will receive any compensation in connection with the views or recommendations expressed in the research report. Regulation AC also requires broker-dealers to, on a quarterly basis, make, keep, and maintain records of research analyst statements regarding whether the views expressed in public appearances accurately reflected the analyst's personal views, and whether any part of the analyst's compensation is related to the specific recommendations or views expressed in the public appearance. Regulation AC also requires that research prepared by foreign persons be presented to U.S. persons pursuant to Securities Exchange Act Rule 15a–6 and that broker-dealers notify associated persons if they would be covered by the regulation. Regulation AC excludes the news media from its coverage.

The collections of information under Regulation AC are necessary to provide investors with information with which to determine the value of the research available to them. It is important for an investor to know whether an analyst may be biased with respect to securities or issuers that are the subject of a research report. Further, in evaluating a research report, it is reasonable for an investor to want to know about an analyst's compensation. Without the information collection, the purposes of Regulation AC could not be met.

The Commission estimates that Regulation AC imposes an aggregate annual time burden of approximately 26,230 hours on 5,186 respondents, or approximately 5 hours per respondent. The Commission estimates that the total annual internal cost of the 26,230 hours is approximately $10,615,404.00, or approximately $2,047.00 per respondent, annually.

The Commission 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 PRA that does not display a valid OMB control number.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 27, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5059 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29966]

Notice of Applications for Deregistration Under the Investment Company Act of 1940

February 24, 2012.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February 2012. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 20, 2012, and should be accompanied by proof of service on the applicant, 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 Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

For Further Information Contact: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street NE., Washington, DC 20549–8010.

DWS Technology Fund [File No. 811–547]

DWS Mutual Funds, Inc. [File No. 811–5565]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On March 1, 2011, each applicant transferred the assets of its series to a corresponding series of DWS Securities Trust, based on net asset value. Expenses of $2,087 and $15,220, respectively, incurred in connection with the reorganizations were paid by the acquiring funds.

Filing Date: The applications were filed on January 18, 2012.

Applicants' Address: 345 Park Ave., New York, NY 10154.

DWS Advisor Funds [File No. 811–4760]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 29, 2011, applicant transferred the assets of its series to corresponding series of DWS Securities Trust, DWS Money Market Trust and DWS Market Trust, based on net asset value. Expenses of $25,446 incurred in connection with the reorganization were paid by the acquiring funds.

Filing Date: The application was filed on January 18, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

DWS RREEF World Real Estate Fund, Inc. [File No. 811–22046]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 28, 2011, applicant transferred its assets to DWS RREEF Global Real Estate Securities Funds (the ''Acquiring Fund''), a series of DWS Advisors Funds, based on net asset value. On April 29, 2011, the Acquiring Fund reorganized as a series of DWS Securities Trust. Expenses of $252,405 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 18, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

Old RMR Real Estate Income Fund [File No. 811–22234]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 20, 2012, applicant transferred its assets to RMR Real Estate Income Fund, based on net asset value. Expenses of $499,159 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 23, 2012.

Applicant's Address: Two Newton Place, 255 Washington St., Suite 300, Newton, MA 02458.

DWS Blue Chip Fund [File No. 811–5357]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 1, 2011, applicant transferred its assets to DWS Blue Chip Fund, a series of DWS Investment Trust, based on net asset value. Expenses of $1,772 incurred in connection with the reorganization were paid by the acquiring fund.

Filing Date: The application was filed on January 18, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

DWS Strategic Government Securities Fund [File No. 811–2719]

DWS Strategic Income Fund [File No. 811–2743]

DWS High Income Series [File No. 811–2786]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On February 1, 2011, each applicant transferred the assets of its series to corresponding series of DWS Income Trust, based on net asset value. Expenses of $3,484, $1,763 and $3,036, respectively, incurred in connection with the reorganizations were paid by the acquiring fund.

Filing Date: The applications were filed on January 18, 2012.

Applicants' Address: 345 Park Ave., New York, NY 10154.

DWS State Tax Free Trust [File No. 811–3749]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 1, 2011, applicant transferred the assets of its outstanding series to a corresponding series of DWS State Tax-Free Income Series, based on net asset value. Expenses of $1,870 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 18, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

AllianceBernstein Global Growth Fund, Inc. [File No. 811–21064]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By October 4, 2011, applicant finished making liquidating distributions to its shareholders, based on net asset value. Expenses of $17,691 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on January 9, 2012.

Applicant's Address: 1345 Avenue of the Americas, New York, NY 10105.

Coventry Funds Trust [File No. 811–8644]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 5, 2008, applicant transferred it assets to EM Capital India Gateway Fund, a series of Northern Lights Fund Trust, based on net asset value. Expenses of approximately $6,960 incurred in connection with the reorganization were paid by EM Capital Management, LLC, applicant's investment adviser.

Filing Dates: The application was filed on October 28, 2011 and amended on January 27, 2012.

Applicant's Address: 3435 Stelzer Rd., Columbus, OH 43219.

Oppenheimer Balanced Fund [File No. 811–3864]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 18, 2011, applicant transferred its assets to Oppenheimer Equity Income Fund, Inc., based on net asset value. Expenses of $134,072 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on February 1, 2012.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

Oppenheimer Principal Protected Trust II [File No. 811–21414]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 24, 2011, applicant transferred its assets to Oppenheimer Main Street Funds, Inc., based on net asset value. Expenses of $79,829 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on February 1, 2012.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

TS&W/Claymore Tax-Advantage Balanced Fund [File No. 811–21515]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 13, 2012, applicant transferred its assets to Guggenheim Municipal Income Fund (formerly Rydex/SGI Municipal Fund), a series of Security Income Fund, based on net asset value. Of $718,000 in expenses incurred in connection with the reorganization, applicant paid $260,000 and the remaining expenses were paid by Guggenheim Funds Investment Advisors, LLC, applicant's investment adviser.

Filing Date: The application was filed on January 30, 2012.

Applicant's Address: 2455 Corporate West Dr., Lisle, IL 60532.

Ameritor Security Trust [File No. 811–18]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 27, 2011, applicant made a liquidating distribution to its shareholders, based

on net asset value. Expenses of $9,490 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on December 28, 2011, and amended on February 1, 2012.

Applicant's Address: 4400 MacArthur Blvd. NW., Suite 301, Washington, DC 20007.

DWS Communications Fund, Inc. [File No. 811–3883]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 29, 2011, applicant transferred its assets to DWS Communications Fund, a series of DWS Securities Trust, based on net asset value. Expenses of $1,404 incurred in connection with the reorganization were paid by the acquiring fund.

Filing Date: The application was filed on January 18, 2012.

Applicant's Address: 345 Park Ave., New York, NY 10154.

York Enhanced Strategies Fund, LLC [File No. 811–21834]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On August 4, 2011, and November 4, 2011, applicant made liquidating distributions to its shareholders, based on net asset value. Applicant has 21 remaining shareholders, and each is a holder of common shares entitled to a pro rata share of the assets, if any, remaining after the winding up of applicant's affairs. As of January 15, 2012, applicant retained assets of $14,944,911 in cash to cover the remaining expenses of winding up its affairs and its remaining liabilities and applicant had $4,344,331 in outstanding liabilities. Expenses of $495,000 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on November 8, 2011, and amended on January 20, 2012.

Applicant's Address: 767 Fifth Ave., 17th Floor, New York, NY 10153.

Our Street Funds, Inc. [File No. 811–22279]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on November 30, 2011, and amended on January 17, 2012.

Applicant's Address: 110 Dale St., P.O. Box 1071, Wise, VA 24293.

Kiewit Investment Fund LLLP [File No. 811–21632]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 28, 2011, applicant's board of directors determined to seek such order. Following completion, on November 30, 2011, of a tender offer for applicant's outstanding interests, applicant has fewer than one hundred investors. Applicant is presently not making an offer of securities and does not propose to make any offering of securities. Applicant will continue to operate as a private investment fund in reliance on section 3(c)(1) of the Act solely for the purpose of and until final liquidation of its remaining assets.

Filing Dates: The application was filed on December 2, 2011, and amended on February 17, 2012.

Applicant's Address: Kiewit Plaza, 3555 Farnam St., Omaha, NE 68131.

Public Facility Loan Trust [File No. 811–5608]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on June 6, 2011, and amended on September 23, 2011 and February 8, 2012.

Applicant's Address: U.S. Bank Corporate Trust Department, One Federal Street, Boston, MA 02110.

American Equity Life Annuity Account [File No. 811–8663]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On November 17, 2011, the Board of Directors of the American Equity Investment Life Insurance Company, the depositor to the American Equity Life Annuity Account, voted to liquidate the Applicant. The Applicant does not have any outstanding variable annuity contracts. Expenses of $3,900 incurred in connection with the liquidation were paid by the American Equity Investment Life Insurance Company.

Filing Date: The application was filed on January 24, 2012.

Applicant's Address: 6000 Westown Parkway, West Des Moines, Iowa 50266.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5060 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29968; File No. 812–13787]

Medley Capital Corporation, et al.; Notice of Application

February 27, 2012.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 57(a)(4) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 57(a)(4) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order to permit a business development company (''BDC'') to co-invest with certain affiliated investment funds in portfolio companies.

APPLICANTS: Medley Capital Corporation (the ''Company''); Medley LLC; MCC Advisors LLC (the ''Adviser''); Medley Capital LLC and MOF II Management LLC (collectively, the ''Affiliated Investment Advisers,'' and together with any future investment advisers controlling, controlled by, or under common control with the Adviser or the Affiliated Investment Advisers that manage Future Affiliated Funds (as defined below), ''Medley Management''); Medley Opportunity Fund LP, Medley Opportunity Fund Ltd., Medley Opportunity Fund II LP, and Medley Opportunity Fund II (Cayman) LP (collectively, the ''Existing Affiliated Funds''); and Medley GP LLC, MOF II GP LLC, and MOF II GP (Cayman) Ltd. (collectively, the ''Affiliated General Partners'').

DATES: *Filing Dates:* The application was filed on June 23, 2010, and amended on November 5, 2010, July 8, 2011, December 7, 2011, February 13, 2012, and February 24, 2012.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief 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 March 23, 2012, and should be accompanied by proof of service on 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 St. NE., Washington, DC 20549–1090. Applicants: c/o Brooke Taube, Medley Capital Corporation, 375 Park Avenue, Suite 3304, New York, NY 10152.

FOR FURTHER INFORMATION CONTACT: David P. Bartels, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

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 for 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 Company is an externally managed, non-diversified, closed-end management investment company that has elected to be regulated as a BDC under the Act.[1] The Company's investment objective is to generate current income and capital appreciation by lending directly to privately-held middle market companies. The Company's board of directors currently consists of seven-members (the ''Board''), four of whom are not ''interested persons'' of the Company within the meaning of section 2(a)(19) of the Act (the ''Independent Directors''). Each of Andrew Fentress, Brooke Taube and Seth Taube (the ''Principals'') serves as a director on the Board.

2. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and serves as the investment adviser to the Company. The Affiliated Investment Advisers are registered under the Advisers Act and currently serve as investment advisers to the Existing Affiliated Funds. Medley LLC, which is controlled by the Principals, serves as the direct or indirect holding company for the Adviser and the Affiliated Investment Advisers. The Affiliated General Partners are the general partners of certain of the Existing Affiliated Funds. The Affiliated General Partners are direct, wholly-owned subsidiaries of Medley GP Holdings LLC, which is controlled by the Principals.

3. Each of the Existing Affiliated Funds is a separate legal entity and is excluded from the definition of ''investment company'' under section 3(c)(1) or 3(c)(7) of the Act. Any Future Affiliated Fund (as defined below) will either be registered under the Act or excluded from the definition of ''investment company'' under section 3(c)(1) or 3(c)(7) of the Act. Any Existing Affiliated Fund or Future Affiliated Fund that co-invests with the Company will have substantially the same investment objectives and strategies as the Company.

4. Applicants request relief permitting the Company (or, as the case may be, another business development company advised by the Adviser), on the one hand, and the Existing Affiliated Funds and any future entities advised by the Adviser or Medley Management (''Future Affiliated Funds,'' together with the Existing Affiliated Funds, the ''Affiliated Funds''), on the other hand, to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 57 of the Act.[2] For purposes of the application, a ''Co-Investment Transaction'' means any investment opportunity in which the Company could not participate together with one or more Affiliated Funds without obtaining and relying on the Order and any transaction in which the Company participated together with one or more Affiliated Funds in reliance on the Order. Affiliated Funds that have the capacity to, and elect to, co-invest with the Company are referred to as ''Participating Funds.''

5. Each Co-Investment Transaction would be allocated among the Company, on the one hand, and the Participating Funds, on the other hand. In selecting investments for the Company, the Adviser will consider the investment objective, investment policies, investment position, capital available for investment, and other factors relevant to the Company. The Adviser expects that any portfolio company that is an appropriate investment for the Company should also be an appropriate investment for one or more Affiliated Funds, with certain exceptions based on available capital or diversification. The Adviser will present each potential Co-Investment Transaction and the proposed allocation to the directors eligible to vote under section 57(o) of the Act (the ''Eligible Directors''). The ''required majority,'' as defined in section 57(o) of the Act (''Required Majority''), will approve each Co-Investment Transaction prior to any investment by the Company.

6. Applicants state that none of the Principals will benefit directly or indirectly from any Co-Investment Transaction (other than by virtue of the ownership of securities of the Company and the Affiliated Investment Advisers) or participate individually in any Co-Investment Transaction. In addition, no Independent Director will have any direct or indirect financial interest in any Co-Investment Transaction or any interest in any portfolio company, other than through an interest (if any) in the securities of the Company.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Affiliated Funds could be deemed to be a person related to the Company in a manner described by section 57(b) by virtue of being under common control with the Company.

2. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to BDCs. Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 applies.

3. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. Rule 17d–1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] All existing entities that currently intend to rely on the order have been named as applicants. Any other existing or future entity that relies on the order in the future will comply with the terms and conditions of the application.

effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC is a participant, absent an order from the Commission. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

4. Applicants state that they expect that co-investment in portfolio companies by the Company and the Affiliated Funds will increase the number of favorable investment opportunities for the Company and that the Co-Investment Program will be implemented only if the Required Majority approves it.

5. Applicants submit that the Required Majority's approval of each Co-Investment Transaction before investment, and other protective conditions set forth in the application, will ensure that the Company will be treated fairly. Applicants state that the Company's participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

6. Under condition 14, if the Adviser, the Principals, any person controlling, controlled by, or under common control with the Adviser or the Principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25% of the outstanding voting securities of the Company (''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability of the Adviser or the Principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Independent Directors will evaluate and approve any such voting trust or proxy adviser, taking into accounts its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each time the Adviser or any member of Medley Management considers a potential Co-Investment Transaction for an Affiliated Fund that falls within the Company's then current investment objectives and strategies, it will make an independent determination of the appropriateness of the investment for the Company in light of the Company's then-current circumstances.

2. (a) If the Adviser deems the Company's participation in any Co-Investment Transaction to be appropriate for the Company, it will then determine an appropriate level of investment for the Company.

(b) If the aggregate amount recommended by the Adviser to be invested by the Company in such Co-Investment Transaction, together with the amount proposed to be invested by the Participating Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on the ratio of the Company's capital available for investment in the asset class being allocated, on one hand, and the Participating Funds' capital available for investment in the asset class being allocated, on the other hand, to the aggregated capital available for investment for the asset class being allocated of all parties involved in the investment opportunity, up to the amount proposed to be invested by each. The Adviser will provide the Eligible Directors with information concerning each party's available capital to assist the Eligible Directors with their review of the Company's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Adviser will distribute written information concerning the Co-Investment Transaction, including the amount proposed to be invested by each Participating Fund, to the Eligible Directors for their consideration. The Company will co-invest with a Participating Fund only if, prior to the Company's and the Participating Fund's participation in the Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching of the Company or its stockholders on the part of any person concerned;

(ii) The transaction is consistent with

(A) The interests of the stockholders of the Company; and

(B) The Company's investment objectives and strategies (as described in the Company's registration statement on Form N–2 and other filings made with the Commission by the Company under the 1933 Act, any reports filed by the Company with the Commission under the Securities Exchange Act of 1934, as amended, and the Company's reports to stockholders);

(iii) The investment by the Participating Funds would not disadvantage the Company, and participation by the Company is not on a basis different from or less advantageous than that of any Participating Fund; provided, that if any Participating Fund, but not the Company, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if

(A) The Eligible Directors shall have the right to ratify the selection of such director or board observer, if any;

(B) The Adviser agrees to, and does, provide periodic reports to the Company's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) Any fees or other compensation that any Participating Fund or any affiliated person of a Participating Fund receives in connection with the right of the Participating Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among Participating Funds (who may, in turn, share their portion with their affiliated persons) and the Company in accordance with the amount of each party's investment; and

(iv) The proposed investment by the Company will not benefit The Adviser or the Affiliated Funds or any affiliated person of either of them (other than the other parties to the Co-Investment Transaction), except (a) to the extent provided by condition 13; (b) to the extent provided by Sections 17(e) or

57(k); (c) indirectly, as a result of an interest in securities issued by one of the parties to the Co-Investment Transaction; or (d) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. The Company has the right to decline to participate in any Co-Investment Transaction or to invest less than the amount proposed.

4. The Adviser will present to the Board, on a quarterly basis, a record of all investments made by the Affiliated Funds during the preceding quarter that fell within the Company's then-current investment objectives and strategies that were not made available to the Company, and an explanation of why the investment opportunities were not offered to the Company. All information presented to the Board pursuant to this condition will be kept for the life of the Company and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for follow-on investments made pursuant to condition 8 below, the Company will not invest in reliance on the Order in any portfolio company in which the Adviser, any Participating Fund, or any affiliated person of either of them is an existing investor.

6. The Company will not participate in any Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date and registration rights will be the same for the Company as for the Participating Funds. The grant to an Affiliated Fund, but not the Company, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. If any of the Participating Funds elects to sell, exchange, or otherwise dispose of an interest in a security that was acquired by the Company and such Participating Funds in a Co-Investment Transaction, the Adviser will:

(a) Notify the Company of the proposed disposition at the earliest practical time; and

(b) Formulate a recommendation as to participation by the Company in any such disposition and provide a written recommendation to the Eligible Directors. The Company will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Participating Funds. The Company will participate in such disposition to the extent that a Required Majority determines that it is in the Company's best interests to do so. The Company and each of the Participating Funds will bear its own expenses in connection with any such disposition.

8. If any Affiliated Fund desires to make a ''follow-on investment'' (i.e., an additional investment in the same entity) in a portfolio company whose securities were acquired by the Company and such Affiliated Fund in a Co-Investment Transaction or to exercise warrants or other rights to purchase securities of the issuer, the Adviser will:

(a) Notify the Company of the proposed transaction at the earliest practical time; and

(b) Formulate a recommendation as to the proposed participation, including the amount of the proposed follow-on investment, by the Company and provide a written recommendation to the Eligible Directors.

The Eligible Directors will make their own determination with respect to follow-on investments. To the extent that:

(i) The amount of a follow-on investment is not based on the Company's and the Participating Funds' outstanding investments immediately preceding the follow-on investment; and

(ii) The aggregate amount recommended by the Adviser to be invested by the Company in such Co-Investment Transaction, together with the amount proposed to be invested by the Participating Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on the ratio of the Company's capital available for investment in the asset class being allocated, on one hand, and the Participating Funds' capital available for investment in the asset class being allocated, on the other hand, to the aggregated capital available for investment for the asset class being allocated of all parties involved in the investment opportunity, up to the amount proposed to be invested by each. The Company will participate in such investment to the extent that a Required Majority determines that it is in the Company's best interest. The acquisition of follow-on investments as permitted by this condition will be subject to the other conditions set forth in the Application.

9. The Independent Directors will be provided quarterly for review all information concerning Co-Investment Transactions during the preceding quarter, including investments made by any Affiliated Funds which the Company considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments which the Company considered but declined to participate, comply with the conditions of the order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Company of participating in new and existing Co-Investment Transactions.

10. The Company will maintain the records required by Section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the Required Majority under Section 57(f).

11. No Independent Director will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of, any of the Affiliated Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) shall, to the extent not payable by the Adviser or the Affiliated Investment Advisers under their respective investment advisory agreements with the Company and the Participating Funds, be shared by the Company and the Participating Funds in proportion to the relative amounts of their securities to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding brokers' fees contemplated by Section 57(k)(2) or 17(e)(2) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the Company and the Participating Funds on a pro rata basis based on the amount they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser or any other adviser that is part of Medley Management pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser or such other adviser, as the case may be, at a bank or banks having the qualifications prescribed in Section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata between the Company and the Participating Funds based on the amount they invest in such Co-

Investment Transaction. None of the Participating Funds nor any affiliated person of the Company will receive additional compensation or remuneration of any kind (other than (a) in the case of the Company and the Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C) and (b) in the case of the Adviser, investment advisory fees paid in accordance with the Funds' Agreements) as a result of or in connection with a Co-Investment Transaction.

14. If the Holders own in the aggregate more than 25% of the outstanding Shares, then the Holders will vote such Shares as directed by an independent third party (such as the trustee of a voting trust or a proxy adviser) when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any matters requiring approval by the vote of a majority of the outstanding voting securities, as defined in section 2(a)(42) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5061 Filed 3–1–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66458; File No. 600–9]

Self-Regulatory Organizations; Midwest Clearing Corporation; Order Cancelling Clearing Agency Registration

February 24, 2012.

I. Background

On December 1, 1975, pursuant to Sections 17A(b) and 19(a)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 17Ab2–1 thereunder,[2] the Securities and Exchange Commission (''Commission'') approved on a temporary basis the application for registration as a clearing agency filed by the Midwest Clearing Corporation (''MCC'').[3] By subsequent orders, the Commission extended MCC's temporary registration.[4] On September 23, 1983, pursuant to Section 17A and Rule 17Ab2–1 thereunder,[5] the Commission approved on a permanent basis MCC's registration as a clearing agency.[6]

MCC was a subsidiary of The Chicago Stock Exchange, Incorporated (''CHX'') [7] and provided trade recording, comparison, clearance, and settlement services to its participants.[8]

II. Cancellation of MCC's Registration as a Clearing Agency

In a letter dated October 28, 2009, CHX notified the Commission that MCC was no longer in operation and therefore had ceased to do business in the capacity specified in its application for registration.[9] CHX also indicated that, given the time elapsed since MCC ceased active operations, it did not anticipate any future claims against MCC or itself.[10]

CHX also stated that ''most of the books and records relating to MCC are beyond the statutory retention period. Any books and records of duration less than the statutory requirement will be maintained in accordance with the CHX's standard document retention policies.'' [11]

Section 19(a)(3) of the Act provides that in the event any self-regulatory organization is no longer in existence or has ceased to do business in the capacity specified in its application for registration, ''the Commission, by order, shall cancel its registration.'' [12]

Based upon the representations and undertakings made by CHX to the Commission and because MCC is no longer in existence and has ceased to do business in the capacity specified in its registration application, the Commission is canceling its registration effective February 24, 2012.

It is therefore ordered that:

Effective February 24, 2012, based on the facts and representations noted above, MCC's registration as a clearing agency under Section 17A of the Exchange Act and Rule 17Ab2–1 thereunder is cancelled.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5054 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[2] 17 CFR 240.17Ab2–1.

[3] Release No. 34–11875 (Nov. 26, 1975), 40 FR 55910 (Dec. 2, 1975).

[4] Release Nos. 34–1358 (June 1, 1977), 42 FR 30066 (Jun. 10, 1977); 34–13911 (Aug. 31, 1977), 1977 WL 190688; 34–14531, 43 FR 10288 (Mar. 10, 1978); and 34–18584 (March 22, 1982), 47 FR 13266 (Mar. 29, 1982).

[5] 15 U.S.C. 78q–1 and 17 CFR 240.17Ab2–1.

[6] Release No. 34–20221, 48 FR 45167 (Oct. 3, 1983).

[7] Letter from David C. Whitcomb Jr., General Counsel, Chicago Stock Exchange, to David Karasik, Division of Trading and Markets (Oct. 28, 2009) (''CHX 2009 Letter'').

[8] Release No. 34–20221, *supra* note 6.

[9] CHX 2009 Letter. MCC was incorporated in Delaware on September 21, 1973, and was dissolved on December 17, 2009. LexisNexis, Public Records, Corporate Filings search (*http://www.lexis.com*) and Secretary of State of the State of Delaware (*http://corp.delaware.gov/authver.shtml*). CHX believes that MCC's clearing agency operations had ceased by late 1995. Email from James G. Ongeena, Vice President and Associate General Counsel, CSX, to David Karasik, Division of Trading and Markets, Commission (Aug. 18, 2011) (providing a copy of a Transfer Agreement dated as of November 14, 1995, by and among CSX, Midwest Securities Trust Company (''MSTC''), MCC, The Depository Trust Company(''DTC''), and National Securities Clearing Corporation (''NSCC'') wherein MCC and MSTC agreed to, among other things, transfer MCC and MSTC's clearing and depository services and related assets and obligations including participants' open positions to DTC and NSCC).

[10] CHX 2009 Letter. In addition, CHX represented to the Commission that as of August 16, 2011, CHX had not, to the best of its knowledge, received any claims against or document requests regarding MSTC within the last two years. Email from James G. Ongeena, Vice President and Associate General Counsel, Chicago Stock Exchange, to David Karasik, Division of Trading and Markets (Aug. 16, 2011).

[11] CHX 2009 Letter.

[12] 15 U.S.C. 78s(a)(3).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66459; File No. 600–11]

Self-Regulatory Organizations; Pacific Clearing Corporation; Order Cancelling Clearing Agency Registration

February 24, 2012.

I. Background

On December 1, 1975, pursuant to Sections 17A(b) and 19(a)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 17Ab2–1 thereunder,[2] the Securities and Exchange Commission (''Commission'') approved on a temporary basis the application for registration as a clearing agency filed by the Pacific Clearing Corporation (''PCC'').[3] By subsequent orders, the Commission extended PCC's temporary registration.[4] On September 23, 1983, pursuant to Section 17A and Rule 17Ab2–1 thereunder,[5] the Commission approved on a permanent basis PCC's registration as a clearing agency.[6]

PCC was a subsidiary of PCX Equities, Inc. (''PCXE'') (now NYSE Arca Equities, Inc.), which was a wholly owned subsidiary of the Pacific

[1] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[2] 17 CFR 240.17Ab2–1.

[3] Release No. 34–11875 (Nov. 26, 1975), 40 FR 55910 (Dec. 2, 1975).

[4] Release Nos. 34–13584 (June 1, 1977), 42 FR 30066 (Jun. 10, 1977); 34–13911 (Aug. 31, 1977), 1977 WL 190688; 34–14531, 43 FR 10288 (Mar. 10, 1978); and 34–18584 (Mar. 22, 1982), 47 FR 13266 (Mar. 29, 1982).

[5] 15 U.S.C. 78q–1 and 17 CFR 240.17Ab2–1.

[6] Release No. 34–20221 (Sept. 23, 1983), 48 FR 45167 (Oct. 3, 1983).

Exchange, Inc. (''PCX'')[7] (now NYSE Arca, Inc. [''NYSE Arca'']).[8] Prior to the transaction described below, PCC offered various clearance and settlement services, such as trade recording for PCX-listed and over-the-counter securities transactions, trade comparison, continuous net settlement, and book-entry depository services.[9]

II. Cancellation of PCC's Registration as a Clearing Agency

In an April 2005 Letter, PCX stated that on or about April 15, 1987, it had ''transferred substantially all of its principal settlement and clearance activities to the National Security [sic] Clearing Corporation ('NSCC').''[10] PCX further stated that on September 13, 2003, the PCX Board of Governors and PCXE Board of Directors voted to take all necessary steps to dissolve PCC.[11] Finally, PCX represented, among other things, that pursuant to Rule 17a–1,[12] PCX would retain at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records of PCC in PCX's or PCXE's possession for at least 5 years from the date of dissolution of PCC.[13]

Section 19(a)(3) of the Act[14] provides that in the event any self-regulatory organization is no longer in existence or has ceased to do business in the capacity specified in its application for registration, ''the Commission, by order, shall cancel its registration.''

Based upon the representations and undertakings made by PCX to the Commission and because PCC is no longer in existence and has ceased to do business in the capacity specified in its registration application, the Commission is canceling its registration effective February 24, 2012.

It is therefore ordered that:

Effective February 24, 2012, based on the facts and representations noted above, PCC's registration as a clearing agency under Section 17A of the Exchange Act and Rule 17Ab2–1 thereunder is cancelled.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5055 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

[7] Letter from Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, Pacific Stock Exchange, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (April 11, 2005) (''April 2005 Letter'').

[8] PCXE and PCC had previously been wholly owned subsidiaries of Archipelago Holdings, Inc. Following the merger on March 6, 2006, of New York Stock Exchange, Inc. with Archipelago Holdings, Inc., the PCX filed with the Securities and Exchange Commission a proposed rule change, which was effective upon filing, that amended its rules to reflect these name changes: From PCX to NYSE Arca; from PCX Equities, Inc. to NYSE Arca Equities, Inc.; from PCX Holdings, Inc., to NYSE Arca Holdings, Inc.; and from the Archipelago Exchange, L.L.C. to NYSE Arca, L.L.C. Release No. 34–53615, 71 FR 19226 (Apr. 13, 2006).

[9] Release No. 34–20221, *supra* note 6.

[10] Letter from Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, Pacific Stock Exchange, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (April 11, 2005) (''April 2005 Letter'').

[11] *Id.* PCC was incorporated in California on April 28, 1955, and was dissolved on August 7, 2007. LexisNexis, Public Records, Corporate Filings search, *http://www.lexis.com.*

[12] 17 CFR 240.17a–1.

[13] April 2005 Letter. In addition, NYSE Euronext represented to the Commission that as of August 26, 2011, it had not received any requests over the last two years for documents relating to PCC and that no claims relating to the operations of PCC had been made. Email from Janet McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to David Karasik, Division of Trading and Markets, Commission (Aug. 26, 2011).

As a result of the business combination of NYSE Group, Inc. and Euronext N.V., the businesses of NYSE Group, including that of the NYSE LLC and NYSE Arca, and Euronext are now held under a single, publicly traded holding company named NYSE Euronext. Release Nos. 34–55293 (Feb. 14, 2007), 72 FR 8033 (Feb. 22, 2007) and 34–55026 (Dec. 29, 2006), 72 FR 814 (Jan. 8, 2007).

[14] 15 U.S.C. 78s(a)(3).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66460; File No. 600–10]

Self-Regulatory Organizations; Pacific Securities Depository Trust Company; Order Cancelling Clearing Agency Registration

February 24, 2012.

I. Background

On December 1, 1975, pursuant to Sections 17A(b) and 19(a)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 17Ab2–1 thereunder,[2] the Securities and Exchange Commission (''Commission'') approved on a temporary basis the application for registration as a clearing agency filed by the Pacific Securities Depository Trust Company (''PSDTC'').[3] By subsequent orders, the Commission extended PSDTC's temporary registration.[4] On September 23, 1983, pursuant to Section 17A and Rule 17Ab2–1 thereunder,[5] the Commission approved on a permanent basis PSDTC's registration as a clearing agency.[6]

PSDTC was a wholly owned subsidiary of the Pacific Exchange, Inc. (''PCX'')[7] (now NYSE Arca, Inc. [''NYSE Arca'']).[8] Prior to the transaction described below, PSDTC offered various clearance and settlement services such as trade recording for Pacific Stock Exchange-listed and over-the-counter securities transactions, trade comparison, continuous net settlement, and book-entry depository services.[9]

II. Cancellation of PSDTC's Registration as a Clearing Agency

In the April 2005 Letter, PCX notified the Commission that PSDTC had been dissolved.[10] PCX represented PCX had diligently identified and paid all PSDTC claims and liabilities including completing the outstanding PSDTC transaction balances and making final monetary distributions to the proper parties or if the proper parties were not identified remitted to the State of California in accordance with state escheatment regulations.[11]

In connection with the dissolution of PSDTC, PCX represented that pursuant to Rule 17a–1[12] PCX would retain at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such PSDTC records in PCX's possession for at least 5 years from the date of termination of PSDTC's registration as a clearing agency.[13]

[1] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[2] 17 CFR 240.17Ab2–1.

[3] Release No. 34–11875 (Nov. 26, 1975), 40 FR 55910 (Dec. 2, 1975).

[4] Release Nos. 34–13584 (June 1, 1977), 42 FR 30066 (Jun. 10, 1977); 34–13911 (Aug. 31, 1977), 1977 WL 190688; 34–14531, 43 FR 10288 (Mar. 10, 1978); and 34–18584 (Mar. 22, 1982), 47 FR 13266 (Mar. 29, 1982).

[5] 15 U.S.C. 78q–1 and 17 CFR 240.17Ab2–1.

[6] Release No. 34–20221, 48 FR 45167 (Oct. 3, 1983).

[7] Letter from Kathryn L. Beck, Senior Vice President, General Counsel and Corporate Secretary, Pacific Stock Exchange, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (April 11, 2005) (''April 2005 Letter'').

[8] PCXE and PCC had previously been wholly owned subsidiaries of Archipelago Holdings, Inc. Following the merger of New York Stock Exchange, Inc. with Archipelago Holdings, Inc., on March 6, 2006, the PCX filed a rule proposal with the Securities and Exchange Commission, which was effective upon filing, that amended its rules to reflect these name changes: From PCX to NYSE Arca; from PCX Equities, Inc. to NYSE Arca Equities, Inc.; from PCX Holdings, Inc., to NYSE Arca Holdings, Inc.; and from the Archipelago Exchange, L.L.C. to NYSE Arca, L.L.C. Release No. 34–53615, 71 FR 19226 (Apr. 13, 2006). For ease of reference NYSE Arca is generally referred to by its former name, PCX, in this order.

[9] Release No. 34–20221, *supra* note 6.

[10] April 2005 Letter. PSDTC was incorporated in California on September 5, 1974, and was dissolved on October 19, 1992. LexisNexis, Public Records, Corporate Filings search (*http://www.lexis.com*). PCX stated that PSDTC voluntarily surrendered its license with the California State Banking Department. April 2005 Letter.

[11] April 2005 Letter.

[12] 17 CFR 240.17a–1.

[13] April 2005 Letter. In addition, NYSE Euronext represented to the Commission that as of August 26,

Continued

Section 19(a)(3) of the Act [14] provides that in the event any self-regulatory organization is no longer in existence or has ceased to do business in the capacity specified in its application for registration, ''the Commission, by order, shall cancel its registration.''

Based upon the representations and undertakings made by PCX to the Commission and because PSDTC is no longer in existence and has ceased to do business in the capacity specified in its registration application, the Commission is canceling its registration effective February 24, 2012.

It is therefore ordered that:

Effective February 24, 2012, based on the facts and representations noted above, PSDTC's registration as a clearing agency under Section 17A of the Exchange Act and Rule 17Ab2–1 thereunder is cancelled.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5056 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

2011, it had not received any requests over the last two years for documents relating to PSDTC and that no claims relating to the operations of PSDTC had been made. Email from Janet McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to David Karasik, Division of Trading and Markets, Commission (Aug. 26, 2011).

As a result of the business combination of NYSE Group, Inc. and Euronext N.V., the businesses of NYSE Group, including that of the NYSE LLC and NYSE Arca, and Euronext are now held under a single, publicly traded holding company named NYSE Euronext. Release Nos. 34–55293 (Feb. 14, 2007), 72 FR 8033 (Feb. 22, 2007) and 34–55026 (Dec. 29, 2006), 72 FR 814 (Jan. 8, 2007).

[14] 15 U.S.C. 78s(a)(3).

[1] 15 U.S.C. 78q–1(b) and 78s(a)(1).

[2] 17 CFR 240.17Ab2–1.

[3] Release No. 34–11875 (Nov. 26, 1975), 40 FR 55910 (Dec. 2, 1975).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66461; File No. 600–7]

Self-Regulatory Organizations; Midwest Securities Trust Company; Order Cancelling Clearing Agency Registration

February 24, 2012.

I. Background

On December 1, 1975, pursuant to Sections 17A(b) and 19(a)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 17Ab2–1 thereunder,[2] the Securities and Exchange Commission (''Commission'') approved on a temporary basis the application for registration as a clearing agency filed by the Midwest Securities Trust Company (''MSTC'').[3] By subsequent orders, the Commission extended MSTC's temporary registration.[4] On September 23, 1983, pursuant to Section 17A and Rule 17Ab2–1 thereunder,[5] the Commission approved on a permanent basis MSTC's registration as a clearing agency.[6] MSTC was a subsidiary of The Chicago Stock Exchange, Incorporated (''CHX'') [7] and operated as a securities depository and trust company providing trade recording, comparison, clearance, and settlement services.[8]

II. Cancellation of MSTC's Registration as a Clearing Agency

In a letter dated April 24, 2003, CHX stated that MSTC was no longer in operation and therefore had ceased to do business in the capacity specified in MSTC's application for registration.[9] Further, in a letter dated October 28, 2009, CHX indicated that MSTC had tendered its Certificate of Authority to the Illinois Office of Banks and Real Estate (''OBRE'') and referenced an agreement between CHX and OBRE regarding the transfer of long-abandoned property from MSTC to OBRE.[10] As part of the subsequent wind down process, MSTC and CHX entered into an agreement with The Depository Trust Company (''DTC'') under which DTC assumed all rights, title, and interest to the name Kray & Co., the nominee partnership for MSTC (''Kray'').[11] CHX stated that, given the length of time that has elapsed since MSTC ceased active operations, CHX did not anticipate any future claims against MSTC, OBRE, Kray, or CHX.[12] CHX also stated that it would retain MSTC's records that were subject to Rule 17a–1 in accordance with CHX's document retention policies and that, as of October 28, 2009, most of the records required to be retained by Rule 17a–1 had exceeded the five year retention period required by Rule 17a–1(b).[13]

Section 19(a)(3) of the Act [14] provides that in the event any self-regulatory organization is no longer in existence or has ceased to do business in the capacity specified in its application for registration, ''the Commission, by order, shall cancel its registration.''

Based upon the representations and undertakings made by CHX to the Commission with regard to MSTC's records and any potential future claims against MSTC and because MSTC is no longer in existence and has ceased to do business in the capacity specified in its registration application, the Commission is canceling MSTC's registration effective February 24, 2012.

It is therefore ordered that:

Effective February 24, 2012, based on the facts and representations noted above, MSTC's registration as a clearing agency under Section 17A of the Act and Rule 17Ab2–1 thereunder is cancelled.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5057 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

[4] Release Nos. 34–13584, 42 FR 30066 (Jun. 10, 1977); 34–13911 (Aug. 31, 1977), 1977 WL 190688; 34–14531, 43 FR 10288 (Mar. 10, 1978); and 34–18584 (March 22, 1982), 47 FR 13266 (Mar. 29, 1982).

[5] 15 U.S.C. 78q–1 and 17 CFR 240.17Ab2–1.

[6] Release No. 34–20221, 48 FR 45167 (Oct. 3, 1983).

[7] Letter from James A. Blanda, Senior Vice President & Treasurer, to Jerry Carpenter, Division of Market Regulation (now the Division of Trading and Markets), Commission (April 24, 2003) (''April 2003 Letter'').

[8] Release No. 34–20221, *supra* note 6. *See also* Letter from David C. Whitcomb Jr., General Counsel, Chicago Stock Exchange, to David Karasik, Division of Trading and Markets, Commission (Oct. 28, 2009) (''October 2009 Letter'').

[9] April 2003 Letter. MSTC was incorporated in Illinois on April 19, 1973, and was dissolved on December 17, 2009. LexisNexis, Public Records, Corporate Filings search (*http://www.lexis.com*) and Illinois Office of the Secretary of State (*http://www.ilsos.gov/corporatellc/*).

[10] October 2009 Letter. *See also* April 2003 Letter.

[11] October 2009 Letter.

[12] *Id.* In addition, CHX represented that as of August 16, 2011, CHX has not, to the best of its knowledge, received any claims against, or document requests regarding, MSTC within the last two years. Email from James G. Ongeena, Vice President and Associate General Counsel, Chicago Stock Exchange, to David Karasik, Division of Trading and Markets, Commission (Aug. 16, 2011).

[13] *Id.* As noted above, CHX represented in April 2003 that MSTC was no longer in operation and had ceased to do business in the capacity specified in MSTC's application for clearing agency registration. April 2003 Letter.

[14] 15 U.S.C. 78s(a)(3).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66472; File No. SR–C2–2012–008]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

February 27, 2012.

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 February 23, 2012, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the

proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 2, 2011, the Commission approved a proposed rule change filed by the Exchange to permit on a pilot basis the listing and trading on C2 of Standard & Poor's 500 Index (''S&P 500'') options with third-Friday-of-the-month (''Expiration Friday'') expiration dates for which the exercise settlement value will be based on the index value derived from the closing prices of component securities (''SPXPM'').[3] On September 28, 2011, the Exchange filed an immediately-effective rule change to adopt fees associated with the anticipated trading of SPXPM (the ''Initial SPXPM Fees Filing'').[4] In the Initial SPXPM Fees Filing, the Exchange adopted an SPXPM Tier Appointment Fee of $4,000 which would be charged to any Market-Maker Permit holder that has an appointment (registration) in SPXPM at any time during a calendar month, but the Exchange also waived that fee through November 30, 2011. On November 23, the Exchange extended that waiver through December 31, 2011.[5] The Exchange then extended that waiver once again through February 29, 2012.[6] The Exchange hereby proposes continuing that waiver for three months through May 31, 2012. The purpose of this waiver extension is to allow more time for the SPXPM market to develop and allow and encourage Market-Makers to join in and elect for an SPXPM Tier Appointment.

The proposed rule change is to take effect on March 1, 2012.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 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 C2 Trading Permit Holders and other persons using Exchange facilities. Continuing the waiver of the SPXPM Tier Appointment Fee is reasonable because it will allow Market-Makers with an SPXPM Tier Appointment to avoid paying the Tier Appointment Fee for another 3-month period, and is equitable and not unfairly discriminatory because all Market-Makers with an SPXPM Tier Appointment will be able to avoid paying the SPXPM Tier Appointment Fee through May 31, 2012.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange 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 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[9] and subparagraph (f)(2) of Rule 19b–4[10] 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 email to *rule-comments@sec.gov.* Please include File Number SR–C2–2012–008 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–C2–2012–008. This file number should be included on the subject line if email 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

[3] *See* Securities Exchange Act Release No. 34–65256 (September 2, 2011), 76 FR 55969 (September 9, 2011) (SR–C2–2011–008).

[4] *See* Securities Exchange Act Release No. 34–65471 (October 3, 2011), 76 FR 62491 (October 7, 2011) (SR–C2–2011–026).

[5] *See* Securities Exchange Act Release No. 34–65874 (December 2, 2011), 76 FR 76785 (December 8, 2011) (SR–C2–2011–037).

[6] *See* Securities Exchange Act Release No. 34–66140 (January 11, 2012), 77 FR 2772 (January 19, 2012) (SR–C2–2012–002).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 C.F.R. 240.19b–4(f)(2).

Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–C2–2012–008 and should be submitted on or before March 23, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5083 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66471; File No. SR–ISE–2012–10]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Obvious Error Rule

February 27, 2012.

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 February 22, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') 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 Rule 720 regarding Obvious Errors. The proposed rule change will re-define theoretical price (''Theoretical Price'') for the purposes of determining whether an execution price constitutes an obvious error (''Obvious Error''). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[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, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Obvious Error rules and procedures in the ISE Rules provide objective criteria by which certain transactions may be analyzed if believed to have been executed at erroneously high or low prices. ISE Rule 720 currently defines the Theoretical Price of an options series, if the series is traded on at least one other options exchange, as ''the last bid price with respect to an erroneous sell transaction, and last offer price with respect to an erroneous buy transaction, just prior to the trade disseminated by the competing options exchange that has the most liquidity in that option; or if there are no quotes for comparison purposes, as determined by designated personnel in the Exchange's market control center.''

The proposed rule change would re-define Theoretical Price to mean, with respect to options series traded on at least one other options exchange, either the last National Best Bid price (with respect to an erroneous sell transaction) or the last National Best Offer price (with respect to an erroneous buy transaction), just prior to the trade in question. The proposed new definition of Theoretical Price will provide the Exchange's market control center with a clearly defined measure of the price on which to base their determination as to whether or not a particular transaction resulted from an erroneous price thus [sic] was an obvious error.[3] This proposed rule change would continue to permit the Exchange's market control center to establish the Theoretical Price when there are no quotes available for comparison purposes.

As this proposed rule change will eliminate any comparison to the ''competing options exchange that has the most liquidity in that option,'' the Exchange proposes to remove Supplementary Material .06 to ISE Rule 720.

2. Basis

The Exchange believes that this proposed rule change is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (''Exchange Act''),[4] in general, and Section 6(b)(5) of the Exchange Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. In particular, the proposed rule change will establish an objective definition of Theoretical Price when determining whether a particular transaction was or was not an Obvious Error.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

[3] The Exchange notes that Boston Options Exchange (''BOX'') uses the NBBO to determine the theoretical price of an option. *See* BOX Chapter V, Sec. 20.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

19(b)(3)(A)[6] of the Act and Rule 19b–4(f)(6)[7] thereunder. The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change.

The proposed rule change will offer Exchange Members the same potential for relief that is available at other options exchanges for certain obvious errors. Further, the proposed rule change is similar to rules currently in place at BOX. For the foregoing reasons, this rule filing qualifies for immediate effectiveness as a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 of the Act, as it does not raise any new, unique or substantive issues, and is beneficial for competitive purposes and to promote a free and open market for the benefit of investors.

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 email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2012–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–10 and should be submitted on or before March 23, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–5082 Filed 3–1–12; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: 60 Day Notice and request for comments. 8(a) Business Development Program.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before May 1, 2012.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, *mailto:202–205–7507%20%20gail.hepler@sba.gov* 202–205–7528 *sandra.johnston@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

SUPPLEMENTARY INFORMATION: The information collected through these Small Business Administration (SBA) forms is used to receive essential information from the small business applicant and the participating lender to determine eligibility and to properly evaluate and consider the merits of each loan request based on such criteria as character, capacity, credit, collateral, etc. for the purpose of extending credit under the 7(a) program.

Title: ''Applications for Business Loans''.

Description of Respondents: Applicants applying for a SBA Loan.

Form Number: 4, 4–I, 4SchA.

Annual Responses: 32,130.

Annual Burden: 214,965.

SUPPLEMENTARY INFORMATION: Small Business Administration (SBA) Form 159 is used by 7(a) lenders, Certified Development companies, and applicants for 7(a), 504 loans and SBA disaster loans. The information collected is used by SBA to establish that there is no appearance of unlawful or unethical activity by agents, loan packagers, and others who receive compensation in exchange for representing the applicants for an SBA business or disaster loan.;

Title: ''Compensation Agreement''.

Description of Respondents: 7(a) Participants.

Form Number: 159(7A), 159(504), 159D.

Annual Responses: 9,395.

Annual Burden: 1,401.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Carol Fendler, Director, License & Program, Office of Investment, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, License & Program, *mailto:202–205–7507%20%20gail.hepler@sba.gov* 202–205–7559 *carol.fendler@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

SUPPLEMENTARY INFORMATION: Form 857 is used by SBA examiners to obtain

information about financing provided by small business investment companies (SBICs). This information, which is collected directly from the financed small business, provides independent confirmation of information reported to SBA by SBICs, as well as additional information not reported by SBICs.

Title: ''Request for Information Concerning Portfolio Financing''.

Description of Respondents: SBIC Investment Companies.

Form Number: 857.

Annual Responses: 2,160.

Annual Burden: 2,160.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gina Beyer, Supervisor Administrative Officer, Office of Disaster Assistance, Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gina Byer, Supervisor Administrative Officer, *mailto:* 202–205–6450 *gina.beyer@sba.gov* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov*

SUPPLEMENTARY INFORMATION: SBA Form 700 provides a record of interviews for disaster assistance from SBA as result for an Administratively declared disasters, and for some victims in Presidentially declared disasters. Respondents are disaster victims who come to SBA seeking information on possible assistance.

Title: ''Disaster Home/Business Loan Inquiry Records''.

Description of Respondents: Business Applications for Pre-Disasters.

Form Number: 700.

Annual Responses: 2,534.

Annual Burden: 634.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Rachel Newman-Karton, Program Analyst, Office of Small Business Development Centers, Small Business Administration, 409 3rd Street, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Rachel Newman-Karton, Program Analyst, *mailto:202-205-7507%20%20gail.hepler@sba.gov,* 202–619–1816; *Rachel.newman@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This evaluation form is completed by the small business owner or prospective owners who have received counseling from SBA's resource partners, Small Business Development Centers (SBDCs). The information is used to measure the quality and impact of counseling provided by the SBDCs. The SBDCs State Director and the SBA Project Officer review the forms to help determine if the client received satisfactory counseling services.

Title: ''SBA Counseling Evaluation''.

Description of Respondents: Small Business Clients.

Form Number: 1419.

Annual Responses: 15,000.

Annual Burden: 2,550.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Dean Koppel, Assistant Administrator, Office of Policy, Planning, Liaison Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Dean Koppel, Assistant Administer, *mailto:* 202–205–7322 *dean.koppel@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: This form is used by SBA Government Contracting Area Office for size protest and size determinations, and program offices to assist in determining eligibility for small business programs.

Title: ''Information for Small Business Size Determination''.

Description of Respondents: Small Businesses.

Form Number: 355.

Annual Responses: 575.

Annual Burden: 2,300.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Brenda Washington, Senior Program, Office of HubZone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Brenda Washington, Senior Program, *mailto:* 202–205–7663, *brenda.washington@sba.gov;* Curtis B. Rich, Management Analyst, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The information is necessary to determine whether HUBZone eligibility requirements are met—the firm is a small business; has a principal office in a HUBZone; 35% of its employees reside in a HUBZone; and, at least 51% owned by US citizens. The information will be submitted by small businesses seeking certifications and recertification as qualified HUBZone businesses.

Title: ''HubZone Program Electronic Application, Recertification and Program Examination''.

Description of Respondents: Small Businesses Seeking Certification Program as a qualified HubZone Small Business Concern.

Form Number: 2103.

Annual Responses: 6,377.

Annual Burden: 10,725.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2012–5035 Filed 3–1–12; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before April 2, 2012. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''8(a) Annual Update''.

Frequency: On Occasion.

SBA Form Number: 1450.

Description of Respondents: Firms that are currently certified as Participant firms in the 8(a) Business Development program and are owned by one of the following entities: Tribe, Alaska Native Corporation (ANC), Native Hawaiian Organization (NHO), or Community Development Corporation (CDC).

Responses: 360.

Annual Burden: 540.

Curtis Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 2012–5041 Filed 3–1–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 7822]

60-Day Notice of Proposed Information Collection: DS–158, Contact Information and Work History for Nonimmigrant Visa Applicant

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Contact Information and Work History for Nonimmigrant Visa Applicant.
- *OMB Control Number:* 1405–0144.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–158.
- *Respondents:* Nonimmigrant Visa Applicants.
- *Estimated Number of Respondents:* 10,000.
- *Estimated Number of Responses:* 10,000.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 10,000.
- *Frequency:* One time per visa application.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from March 2, 2012.

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

- *Web:* Persons with access to the Internet may view and comment on this notice by going to the Federal regulations Web site at: *www.regulations.gov.* You can search for the document by: selecting ''Notice'' under Document Type, entering the Public Notice number as the ''Keyword or ID'', checking the ''Open for Comment'' box, and then click ''Search''. If necessary, use the ''Narrow by Agency'' option on the Results page.
- *Mail (paper, or CD submissions):* Chief, Legislation and Regulations Division, Visa Services DS–158, 2401 E Street NW., Washington DC 20520–0160.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Sydney Taylor, Visa Services, U.S. Department of State, 2401 E Street NW., L–603, Washington, DC 20520–0106, who may be reached on (202) 663–3721.

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: This form collects contact information, current employment information, and previous work experience information from aliens applying for nonimmigrant visas to enter the United States. The information collected is necessary to determine eligibility for certain visa classifications.

Methodology: Applicants may fill out the DS–158 online or print the page and fill it out by hand, and submit it in person at the time of interview.

Dated: February 22, 2012.

David T. Donahue,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2012–5125 Filed 3–1–12; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 7546]

Suggestions for Environmental Cooperation Pursuant to the United States-Chile Environmental Cooperation Agreement

ACTION: Notice of preparation of the 2012–2014 U.S.-Chile Environmental Cooperation Work Program and request for comments.

SUMMARY: The Department invites the public, including NGOs, educational institutions, private sector enterprises and other interested persons, to submit written comments or suggestions regarding items for inclusion in a new work program for implementing the U.S.-Chile Environmental Cooperation Agreement, which was signed on June 17, 2003. We encourage submitters to refer to: (1) The U.S.-Chile Environmental Cooperation Agreement; (2) the U.S.-Chile 2009–2011 Work Program for Environmental Cooperation; (3) Chapter 19 (Environment) of the U.S.-Chile Free Trade Agreement; and (4) the Environmental Review of the U.S.-Chile Free Trade Agreement. These documents are available at *http://www.state.gov/e/oes/env/trade/chile/index.htm.*

DATES: To be assured of timely consideration, all written comments or suggestions are requested no later than March 23, 2012.

ADDRESSES: Written comments or suggestions should be emailed (*SlocumRB@state.gov*) or faxed ((202) 647–5947) to Rebecca Slocum, Office of Environmental Policy, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, with the subject line ''U.S.-Chile Environmental Cooperation Work Program.'' If you have access to the Internet you can view and comment on this notice by going to: *http://www.regulations.gov/#!home.*

FOR FURTHER INFORMATION CONTACT: Rebecca Slocum, telephone (202) 647–4828.

SUPPLEMENTARY INFORMATION: The United States and Chile established the U.S.-Chile Joint Commission for Environmental Cooperation (the Commission) when they signed the U.S.-Chile Environmental Cooperation

Agreement (ECA) on June 17, 2003, negotiated in concert with the U.S.-Chile Free Trade Agreement (FTA). The Commission is to meet every two years to advance environmental cooperation and review progress in implementing the ECA. The Commission also is responsible for establishing and developing programs of work that reflect national priorities for cooperative environmental activities.

The Commission last met January 20, 2010 in Washington, DC. During the meeting, the United States and Chile signed the 2009–2011 Work Program, which built on successes from previous work programs and laid out a roadmap for environmental cooperation to achieve the long-term goals of: (1) Strengthening effective implementation and enforcement of environmental laws and regulations; (2) encouraging development and adoption of sound environmental practices and technologies, particularly in business enterprises; (3) promoting sustainable development and management of environmental resources, including wild fauna and flora, protected wild areas, and other ecologically important ecosystems; and (4) encouraging civil society participation in the environmental decision-making process and environmental education.

For the 2012–2014 Work Program, we anticipate building upon cooperative work initiated under previous work programs. We are requesting suggestions that may be considered for inclusion in the next Work Program.

For additional information: *http://www.state.gov/e/oes/env/trade/chile/index.htm.*

Disclaimer: This Public Notice is a request for comments and suggestions, and is not a request for applications. No granting of money is directly associated with this request for suggestions for the Work Program. There is no expectation of resources or funding associated with any comments or suggestions for the Work Program.

Dated: February 24, 2012.

George Sibley,

Director, Office of Environmental Policy, Department of State.

[FR Doc. 2012–5121 Filed 3–1–12; 8:45 am]

BILLING CODE 4710–09–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respect to Goods and Services Covered by Chapter Seventeen of the United States-Korea Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Determination Regarding Waiver of Discriminatory Purchasing Requirements Under Trade Agreements Act of 1979.

DATES: *Effective Date:* March 15, 2012.

FOR FURTHER INFORMATION CONTACT: Jean Heilman Grier, Senior Procurement Negotiator, Office of the United States Trade Representative, (202) 395–9476, or Daniel Stirk, Associate General Counsel, Office of the United States Trade Representative, (202) 395–9617.

SUPPLEMENTARY INFORMATION: On June 30, 2007, the United States and the Republic of Korea entered into the United States-Korea Free Trade Agreement (''KORUS''). Chapter 17 of KORUS sets forth certain obligations with respect to government procurement of goods and services, as specified in Annex 17–A of KORUS. These obligations include, *inter alia,* that in assessing whether a supplier satisfies the conditions for participation, a procuring entity shall not impose the condition that, in order for a supplier to participate in a procurement or be awarded a contract, the supplier has been previously awarded one or more contracts by a procuring entity of that Party or that the supplier has prior work experience in the territory of that Party.

On October 21, 2011, the President signed into law the United States-Korea Free Trade Agreement Implementation Act (''the KORUS Act'') (Pub. L. 112–41, 125 Stat. 428 (19 U.S.C. 3805 note). In section 101(a) of the KORUS Act, the Congress approved KORUS. The KORUS will enter into force on March 15, 2012.

Section 1–201 of Executive Order 12260 of December 31, 1980 (46 FR 1653) delegates the functions of the President under Sections 301 and 302 of the Trade Agreements Act of 1979 (''the Trade Agreements Act'') (19 U.S.C. 2511, 2512) to the United States Trade Representative.

Acting pursuant to Executive Order 12260, the United States Trade Representative designated the Republic of Korea for purposes of section 301(a) of the Trade Agreements Act, on the basis of the Republic of Korea's status as a party to the World Trade Organization Agreement on Government Procurement (''the GPA''). The Republic of Korea continues to be designated for purposes of section 301(a) of the Trade Agreements Act.

Under KORUS, the Republic of Korea will provide reciprocal competitive government procurement opportunities to United States products and suppliers of such products, which are greater than the reciprocal competitive government procurement opportunities the Republic of Korea provides to United States products and suppliers of such products under the GPA. The Republic of Korea's commitment to provide such reciprocal competitive procurement opportunities constitutes an independent basis for its designation for the purpose of section 301(1) of the Trade Agreements Act.

Determination: In conformity with sections 301 and 302 of the Trade Agreements Act and Executive Order 12260, and in order to carry out U.S. obligations under Chapter 17 of KORUS, I hereby determine that:

1. The Republic of Korea is a country, which, pursuant to KORUS, will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with Section 301(b)(3) of the Trade Agreements Act, the Republic of Korea is so designated for purposes of Section 301(a) of the Trade Agreements Act.

2. With respect to eligible products of the Republic of Korea (*i.e.,* goods and services covered by the Schedule of the United States in Annex 17–A of KORUS) and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than accorded—

(A) To United States products and suppliers of such products; or

(B) To eligible products of another foreign country or instrumentality which is a party to the GPA and suppliers of such products, shall be waived.

With respect to the Republic of Korea, this waiver shall be applied by all entities listed in the Schedule of the United States in Annex 17–A of KORUS.

3. The designation in paragraph 1 and the waiver in paragraph 2 are subject to

modification or withdrawal by the United States Trade Representative.

Ron Kirk,

United States Trade Representative.

[FR Doc. 2012–5029 Filed 3–1–12; 8:45 am]

BILLING CODE 3190–W2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Land Release for Penn Yan Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice, request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the Penn Yan Airport (PEO), Penn Yan, New York, Notice of Proposed Release from Aeronautical Use of approximately 10.00 +/− acres of airport property, to allow for non-aeronautical development.

The parcel is located on the northwest corner of the Penn Yan Airport. The tract currently consists of 10.00 +/− acres of land and it is currently vacant. The requested release is for the purpose of permitting the airport owner to sell and convey title of 10.00 +/− acres for construction of a boat storage and maintenance facility by Land and Sea Properties.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Office of the Yates County Legislature and the FAA New York Airport District Office.

DATES: Comments must be received by April 2, 2012.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Otto N. Suriani, Acting Manager, FAA New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530. In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. H. Taylor Fitch, Chairman, Yates County Legislature, at the following address: 417 Liberty Street Penn Yan, NY 14527.

FOR FURTHER INFORMATION CONTACT: Otto N. Suriani, Acting Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3809; FAX (516) 227–3813; email *Otto.Suriani@faa.gov.*

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 1st Century (AIR21) requires the FAA to provide an opportunity for public notice and comment before the Secretary may waive a Sponsor's Federal obligation to use certain airport land for aeronautical use.

Issued in Garden City, New York, on January 13, 2012.

Otto N. Suriani,

Acting Manager, New York, Airports District Office, Eastern Region.

[FR Doc. 2012–5166 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meeting: RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (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 March 21, 2012, from 8:30 a.m.–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: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *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., App.), notice is hereby given for a meeting of the Program Management Committee. The agenda will include the following:

March 21, 2012

- Welcome, Introductions, and Administrative Remarks
- Review/Approve Meeting Summary
  - December 13, 2011, RTCA Paper No. 015–12/PMC–954
- Publication Consideration Approval
  - Final Draft, Supplement to DO–312, *Safety, Performance and Interoperability Requirements Document for the In-Trail Procedure in Oceanic Airspace (ATSA–ITP) Application,* RTCA Paper No. 027–12/PMC–959, prepared by SC–186
  - Final Draft, New Document—*Minimum Operational Performance Standards (MOPS) for Solid-State Strap-Down Attitude and Heading Systems (AHRS),* RTCA Paper No. 022–12/PMC–957, prepared by SC–219
  - Final Draft, New Document—*Guidance for Installation of Automatic Flight Guidance and Control Systems for Part 23 Airplanes,* RTCA Paper No.018–12/PMC–956, prepared by SC–220
  - Final Draft, New Document—*Guidance for Certification of an Installed Automatic Flight Guidance and Control Systems for Part 27/29 Rotorcraft,* RTCA Paper No. 018–12/PMC–955, prepared by SC–220
  - Final Draft, Revised DO–305, *Future Air Navigation System 1/A—Aeronautical Telecommunication Network Interoperability Standard (FANS 1/A—ATN B1 Interop Standard*), RTCA Paper No. 028–12/PMC–960, prepared by SC–214
  - Final Draft, Revised DO–281A, *Minimum Operational Performance Standards for Aircraft VDL Mode 2 Physical, Link, and Network Layer,* RTCA Paper No. 029–12/PMC–961, prepared by SC–214
  - Final Draft, New Document, *Aircraft Derived Meteorological Data via ADS–B Data Link for Wake Vortex, Air Traffic Management and Weather Applications—Operational Services and Environmental Definition (OSED),* RTCA Paper No. 030–12/PMC–962, prepared by SC–206
- Integration and Coordination Committee (ICC)—Report
  - MASPS, SPR Guidance—Update
- Action Item Review
  - SC–222—Inmarsat AMS(R)S—Discussion—Review/Approve Revised Terms of Reference
  - PMC Ad Hoc—Special Committee Guidance Document—Status
- Discussion
  - SC–147—Traffic Alert and Collision Avoidance System—Discussion—Requirements Working Group Report and Proposed Terms of Reference
  - SC–220—Automatic Flight Guidance and Control Systems—Discussion—Recommendations for Future Activity and proposed Terms of Reference
  - SC–217, Terrain and Airport Databases,—Discussion—Recommendations for Future Activity and Proposed Terms of Reference
  - 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 February 27, 2012.

Kathy Hitt,

Program Analyst, Business Operations Branch, Federal Aviation Administration.

[FR Doc. 2012–5129 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Release From Federal Grant Assurance Obligations at Fresno Yosemite International Airport, Fresno, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of request to release airport land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a release of approximately 16.02 acres of airport property at the Fresno Yosemite International Airport, Fresno, California from all conditions contained in the Grant Assurances since the parcels of land is not needed for airport purposes. The land is located approximately 5,000 feet from the end of runway 11L in the northwest corner of the airport property. The property will be sold for its fair market value to the California Department of Transportation (CALTRANS) and the proceeds deposited in the airport account. CALTRANS will continue to use the land as passive wetlands, which will keep the property vacant and compatible with the airport to ensure it does not interfere with the airport or its operation, as well as continuing to serve the interest of civil aviation.

DATES: Comments must be received on or before April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Comments on the request may be mailed or delivered to the FAA at the following address: Robert Lee, Airports Compliance Specialist, Federal Aviation Administration, San Francisco Airports District Office, **Federal Register** Comment, 1000 Marina Boulevard, Suite 220, Brisbane, CA 94005. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Russell C. Widmar, Director of Aviation, 4995 E. Clinton Way, Fresno, CA 93727.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The City of Fresno, California requested a release from grant assurance obligations for approximately 16.02 acres of airport land to allow for its sale. The property was originally acquired as two separate parcels with federal funding and airport generated funds. Approximately 5.32 Acres were acquired under Airport Development Aid Program (ADAP) grant No. 6–06–0087–06 and 10.70 acres of the land was acquired from the State of California with airport generated funds.

Due to its location and condition, the property cannot be used for airport purposes. The property previously contained homes that have been removed and the land cleared. The land is presently kept vacant and is unimproved and does not have income generating potential. The planned land use is for water recharge, ponding basin, and passive wetlands. The property will be kept mitigated to ensure that its passive use does not interfere with airport operations. The release will allow 16.02 acres to be sold to CALTRANS. The sale price will be based on an upward adjusted appraised market value of $762,450. The sale proceeds will be deposited in the airport account. The Fresno Yosemite International Airport will be properly compensated, thereby serving the interests of civil aviation.

Issued in Brisbane, California, on February 22, 2012.

Robin K. Hunt,

Manager, San Francisco Airports District Office, Western-Pacific Region.

[FR Doc. 2012–5167 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Dubois Regional Airport, Reynoldsville, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of 11.47 acres of land at the Dubois Regional Airport, Reynoldsville, Pennsylvania under the provisions of Section 47125(a) of Title 49 United States Code (U.S.C.).

DATES: Comments on this application must be received on or before April 2, 2012. Comments should be mailed or delivered to the addresses listed below.

ADDRESSES: Documents are available for review, by appointment, at the following addresses:

Robert W. Shaffer, Manager, Dubois Regional Airport, 377 Aviation Way, Reynoldsville, PA 15851.

and at the FAA Harrisburg Airports District Office:

Lori K. Pagnanelli, Manager, Harrisburg Airports District Office, 3905 Hartzdale Dr., Suite 508, Camp Hill, PA 17011.

FOR FURTHER INFORMATION CONTACT: Susan L. McDonald, Environmental Protection Specialist, Harrisburg Airports District Office location listed above.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Dubois Regional Airport under the provisions of Section 47125(a) of Title 49 U.S.C. The FAA has determined that the request to release property at the Dubois Regional Airport (DUJ), Pennsylvania, submitted by the Clearfield-Jefferson Counties Regional Airport Authority (Authority), meets the procedural requirements.

The following is a brief overview of the request:

The Authority requests the release of real property totaling 11.47 acres of non-aeronautical airport property to Orion Drilling Company of Corpus Christi, TX. The land was originally purchased with federal funds in 1988, AIP Grant 3–42–0023–05–88. In 2007, the Authority requested, and FAA approved, a change in use from aeronautical use to non-aeronautical use of three parcels of land (Lots 1, 2, and 3), totaling 36.33 acres of the Air Commerce Park. The subject 11.47 acres of this request is Lot 2 of the 36.33 acre Air Commence Park. Lot 2 of

the Air Commence Park is currently undeveloped property. It is located on the southwest corner within the Air Commerce Park, which is directly north of the main DuBois Regional Airport parking lot and south of State Route 830. Orion Drilling Company of Corpus Christi, TX is proposing to develop the property and erect two buildings, an office and a warehouse, to store and maintain drilling units for the Marcellus shale gas industry. The subject land does not serve an aeronautical purpose and is not needed for airport development, as shown on the Airport Layout Plan for the Dubois Regional Airport. Fair Market Value (FMV) will be obtained from the land sale. All proceeds from the sale of the property will be used to reduce operating costs at the airport.

Any person may inspect the request by appointment at the FAA office address listed above. Interested persons are invited to comment on the proposed release from obligations. All comments will be considered by the FAA to the extent practicable.

Issued in Camp Hill, Pennsylvania, February 13, 2012.

Lori K. Pagnanelli,

Manager, Harrisburg Airports District Office.

[FR Doc. 2012–5162 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0053]

Visual-Manual NHTSA Driver Distraction Guidelines for In-Vehicle Electronic Devices

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

ACTION: Announcement of public hearings.

SUMMARY: On February 24, 2012, NHTSA published proposed NHTSA Driver Distraction Guidelines (77 FR 11200). NHTSA is announcing a set of public hearings relating to these proposed Guidelines. The hearings will provide opportunities for the public to present oral testimony regarding the proposal.

DATES:

Hearings. NHTSA will hold three public hearings on the following dates: March 12, 2012, in Washington, DC; March 15, 2012, in Chicago, Illinois; and March 16, 2012, in Los Angeles, California. Each hearing will start at 9 a.m. and continue until 12 p.m., local time. If you would like to present oral testimony at one of the public hearings, please contact the person identified under **FOR FURTHER INFORMATION CONTACT** at least ten days before the hearing.

Written comments. As announced in the proposal, to be assured of consideration, written comments on the proposed NHTSA Guidelines must be received by April 24, 2012 (77 FR 11200).

ADDRESSES:

Hearings. The March 12, 2012 hearing will be held at the U.S. Department of Transportation, West Building Ground Floor, Media Center—Room W11–130, 1200 New Jersey Avenue SE., Washington, DC 20590. The March 15, 2012 hearing will be held at the James R. Thompson Center, Room 16–503, 100 West Randolph Street, Chicago, IL 60601. The March 16, 2012 hearing will be held at West Los Angeles Field Office Federal Building, Ron Williams Memorial Conference Room—C–206, 11000 Wilshire Boulevard, Los Angeles, CA 90024. The hearings will be held at sites accessible to individuals with disabilities.

Written comments. As announced in the proposal, you may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony at one of the public hearings, please contact Kristin J. Kingsley, Engineering Policy Advisor and Special Assistant to the Deputy Administrator, Telephone (202) 366–5729; Facsimile: (202) 366–0015; National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Please contact Ms. Kingsley at least five days before the hearing date specified under **DATES**.

Please provide the following information: Name, affiliation, address, email address, telephone and fax numbers, and whether you require accommodations such as a sign language interpreter or translator.

For technical issues concerning the proposed NHTSA Guidelines, you may contact Dr. W. Riley Garrott, Vehicle Research and Test Center, telephone: (937) 666–3312, facsimile: (937) 666–3590. You may send mail to this person at: The National Highway Traffic Safety Administration, Vehicle Research and Test Center, P.O. Box B–37, East Liberty, OH 43319. You may learn more about the proposed NHTSA Guidelines by visiting the Department of Transportation's Web site on distracted driving, *Distraction.gov,* NHTSA's Web site, *www.nhtsa.gov,* or by searching the public docket (NHTSA–2010–0053) at *www.regulations.gov*.

SUPPLEMENTARY INFORMATION: The proposed NHTSA Guidelines are meant to promote safety by discouraging the introduction of excessively distracting devices in vehicles. These NHTSA Guidelines, which are voluntary, apply to communications, entertainment, information gathering, and navigation devices or functions that are not required to operate the vehicle safely and that are operated by the driver through visual-manual means (meaning the driver looking at a device, manipulating a device-related control with the driver's hand, and watching for visual feedback).

The proposed NHTSA Guidelines list certain secondary, non-driving related tasks that, based on NHTSA's research, are believed by the agency to interfere inherently with a driver's ability to safely control the vehicle. The Guidelines recommend that those in-vehicle devices be designed so that they cannot be used by the driver to perform such tasks while the driver is driving. For all other secondary, non-driving-related visual-manual tasks, the NHTSA Guidelines specify a test method for measuring the impact of task performance while driving on driving safety and time-based acceptance criteria for assessing whether a task interferes too much with driver attention to be suitable to perform while driving. If a task does not meet the acceptance criteria, the NHTSA Guidelines recommend that in-vehicle devices be designed so that the task cannot be performed by the driver while driving.

In addition to identifying inherently distracting tasks and providing a means for measuring and evaluating the level of distraction associated with other non-driving-related tasks, the NHTSA Guidelines set forth several design recommendations for in-vehicle devices

in order to minimize their potential for distraction.

The proposed NHTSA Guidelines were published in the **Federal Register** on February 24, 2012 (77 FR 11200) and are available on the Web pages listed above under **FOR FURTHER INFORMATION CONTACT** and also in the rulemaking docket. The notice is also available at *http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Distraction_NPFG-02162012.pdf.*

Background information concerning proposal in particular and the problem of distracted driving in general is available at *http://www.nhtsa.gov/About+NHTSA/Press+Releases/2012/U.S.+Department+of+Transportation+Proposes+'Distraction'+Guidelines+for+Automakers* and at *http://www.distraction.gov/.*

Public Hearing Procedures. For planning purposes, each speaker should anticipate speaking for approximately ten minutes, although we may need to shorten that time if there is a large number of people wishing to make presentations. Once we learn how many people have registered to speak at each public hearing, we will allocate an appropriate amount of time to each participant, allowing time for necessary breaks. In addition, we will reserve a block of time for anyone else in the audience who wishes to give an oral presentation.

We request that you bring three copies of your statement or other material to the hearing for the NHTSA panel. To accommodate as many speakers as possible, we prefer that speakers not use technological aids (e.g., audio-visuals, computer slideshows). However, if you wish to do so, you must notify the contact person in the **FOR FURTHER INFORMATION CONTACT** section above. You must also make arrangements to provide your presentation or any other aids to NHTSA in advance of the hearing in order to facilitate set-up.

NHTSA will conduct the hearings informally. Thus, technical rules of evidence will not apply. We will arrange for a written transcript of each hearing. Presenters wishing to provide supplementary information should submit it to the address given above for written comments by the April 24th deadline for those comments. Panel members may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. You may make arrangements for copies of the transcripts directly with the court reporter. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearings.

Issued on February 27, 2012.

David L. Strickland,

Administrator.

[FR Doc. 2012–5098 Filed 2–28–12; 4:15 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2012–0027]

Appointment/Reappointment to the National Emergency Medical Services Advisory Council (NEMSAC)

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

ACTION: Notice of Request for Applicants for Appointment/Reappointment to the National Emergency Medical Services Advisory Council (NEMSAC).

SUMMARY: NHTSA is soliciting applications for appointment or reappointment to DOT's NEMSAC. The purpose of NEMSAC is to serve as a nationally recognized council of emergency medical services (EMS) representatives and consumers to provide advice and recommendations regarding EMS to DOT and its modal administration, NHTSA, and through NHTSA to the Federal Interagency Committee on EMS (FICEMS).

DATES: Applications for membership (including resume or curriculum vitae (CV), letters of recommendation, and a statement identifying the EMS sector or discipline that the applicant seeks to represent) should reach NHTSA at the address below on or before 5 p.m. EST, on Friday, March 30, 2012.

ADDRESSES: If you wish to apply for membership, your application should be submitted by:

- *Email: NEMSAC@dot.gov.*
- *Fax:* (202) 366–7149.
- *Mail: Use only overnight mail such as UPS or FedEx to:* U.S. Department of Transportation, National Highway Traffic Safety Administration, Office of Emergency Medical Services, Attn: NEMSAC, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer, Drew Dawson, Director, Office of Emergency Medical Services, telephone (202) 366–9966; email *drew.dawson@dot.gov,* or Noah Smith at (202) 366–5030 or via email at *noah.smith@dot.gov.*

SUPPLEMENTARY INFORMATION: NEMSAC is an advisory council established by DOT in accordance with the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App.) and DOT Order 1120.3B. NEMSAC provides information, advice, and recommendations to the Secretary via the Administrator of NHTSA, and through NHTSA to FICEMS on matters relating to all aspects of development and implementation of EMS.

In accordance with the NEMSAC Charter, a copy of which is available at *www.EMS.gov/nemsac,* members should represent a cross-section of the diverse agencies, organizations, and individuals involved in EMS activities and programs in the U.S. NEMSAC consists of not more than 26 members, each of whom shall be appointed by the Secretary. Members serve in a ''representatives'' capacity on NEMSAC and not as Special Government Employees. Pursuant to the charter, 24 of these members must represent the perspectives of particular sectors of the EMS community. Members will be selected for their individual expertise and to reflect a balanced representation of interests from across the EMS community, but no member will represent a specific organization.

To the extent practical, the final council membership shall assure representation from the following sectors of the EMS community:

- Volunteer EMS
- Fire-based (career) EMS
- Private (career non-fire) EMS
- Hospital-based EMS
- Tribal EMS
- Air Medical EMS
- Local EMS service directors/administrators
- EMS Medical Directors
- Emergency Physicians
- Trauma Surgeons
- Pediatric Emergency Physicians
- State EMS Directors
- State Highway Safety Directors
- EMS Educators
- Public Safety Call-taker/Dispatcher (911)
- EMS Data Managers
- EMS Researchers
- Emergency Nurses
- Hospital Administration
- Public Health
- Emergency Management
- State Homeland Security Director
- Consumers (not directly affiliated with an EMS or healthcare organization)
- State or local legislative bodies (e.g. city/county councils; state legislatures)

Qualified individuals interested in serving on the NEMSAC are invited to

apply for appointment by submitting a resume or CV along with letters of recommendation to NHTSA at the addresses listed above by March 30, 2012. Each applicant must identify the EMS sector or discipline that he or she seeks to represent. Current NEMSAC members whose terms are ending should notify the Designated Federal Officer of their interest in reappointment in lieu of submitting a new application, and should provide an updated resume or CV and a restatement of the current sector they represent by March 30, 2012.

The NEMSAC meets in plenary session approximately once per quarter. Members serve without compensation from the Federal Government; however, pursuant to the terms of the Charter, they receive travel reimbursement and per diem in accordance with applicable Federal Travel Regulations.

Issued on: February 28, 2012.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2012–5088 Filed 3–1–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35588]

Eastern Maine Railway Company—Acquisition and Operation Exemption—Montreal, Maine & Atlantic Railway, Ltd.

Eastern Maine Railway Company (EMR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Montreal, Maine & Atlantic Railway, Ltd. (MMA), and to operate approximately 28.75 miles of rail line between the rail line owned by the State of Maine near Madawaska, Me. to the Canadian National Railway (CN) rail line near St. Leonard, N.B. at milepost 194.1 of CN's Nappadoggin Subdivision. Specifically, the 28.75 miles of rail line consist of: (1) MMA's Madawaska Subdivision extending from milepost 260 to milepost 264.13; (2) MMA's Van Buren Subdivision extending from milepost 0.0 to milepost 23.69; and (3) an additional 0.93 miles of rail line, including the Van Buren Bridge, for connection to the CN rail line near St. Leonard, N.B.[1]

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35598, *Eastern Maine Railway Company—Assignment of Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd. and Maine Northern Railway Company,* wherein EMR seeks to acquire overhead trackage rights by assignment from MMA.[2]

The Maine Northern Railway Company (MNRC) currently has overhead trackage rights over the 28.75 miles of rail line owned by MMA. EMR is acquiring the line subject to these trackage rights. Therefore, MNRC's overhead trackage rights will remain unchanged by EMR's acquisition of the MMA line.[3] Also, CN currently has limited trackage rights over a portion of the line,[4] and CN's indirect subsidiary Waterloo Railway Company has a limited easement over a portion of the line.[5] EMR is acquiring the line subject to these rights as well.

The transaction is expected to be consummated on or about March 19, 2012.

EMR certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. Because EMR's projected annual revenues will exceed $5 million, EMR certified to the Board on January 17, 2012, that it had complied with the requirements of 49 CFR 1150.32(e) by providing notice to employees and their labor unions on the affected 28.75 miles of rail line. Under 49 CFR 1150.32(e), this exemption cannot become effective until 60 days after the date notice was provided, which would be March 17, 2012.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than March 9, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35588, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karyn A. Booth, Thompson Hine LLP, Suite 800, 1920 N Street NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 28, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–5079 Filed 3–1–12; 8:45 am]

BILLING CODE 4915–01–P

[1] EMR recognizes that the Board's jurisdiction only covers the acquisition of the line to the U.S.-Canada border.

[2] These trackage rights would enable EMR access over the line owned by the State of Maine and extend from milepost 109 near Millinocket, Me., to milepost 260 near Madawaska, Me. MMA previously obtained these trackage rights in *Montreal, Maine & Atlantic Railway, Ltd.—Trackage Rights Exemption—Maine Northern Railway Company,* FD 35505 (STB served May 27, 2011).

[3] *See Me. N. Ry.—Trackage Rights Exemption—Montreal, Me. & Atl. Ry.,* FD 35518 (STB served June 3, 2011).

[4] *See Canadian Natl. Ry.—Trackage Rights Exemption—Bangor and Aroostook R.R. and Van Buren Bridge Co.,* FD 34014 (STB served Mar. 21, 2001).

[5] *See Waterloo Ry.—Acquis. Exemption—Bangor and Aroostook R.R. and Van Buren Bridge Co.,* FD 34015 (STB served Mar. 21, 2001).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35598]

Eastern Maine Railway Company—Assignment of Trackage Rights Exemption—Montreal, Maine & Atlantic Railway, Ltd. and Maine Northern Railway Company

Pursuant to a written agreement, Montreal, Maine & Atlantic Railway, Ltd. (MMA) has agreed to assign its overhead trackage rights to the Eastern Maine Railway Company (EMR) over approximately 151 miles of rail line owned by the State of Maine (State) extending between milepost 109 near Millinocket, Me., and milepost 260 near Madawaska, Me. (the Line).

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35588, *Eastern Maine Railway Company—Acquisition and Operation Exemption—Montreal, Maine & Atlantic Railway, Ltd.,* wherein EMR seeks to acquire from MMA and to operate 28.75 miles of rail line.

MMA, the former owner of the Line, proposed to abandon it and several other lines in 2010.[1] The State purchased the Line and the other trackage to ensure rail service continued in northern Maine.[2] Pursuant to a lease and operating agreement between Maine Northern Railway Company (MNRC) and the State, MNRC was selected as the

[1] *See Montreal, Me. & Atl. Ry.—Discon. of Service and Aban.—In Aroostook and Penobscot Cntys., Me.,* AB 1043 (Sub-No. 1) (STB served Dec. 27, 2010).

[2] *See Montreal, Me. & Atl. Ry.—Modified Rail Certificate—In Aroostook and Penobscot Cntys., Me.,* FD 35463 (STB served Jan. 26, 2011).

new operator.[3] In anticipation of MNRC service, MMA acquired trackage rights over the Line to continue to connect its line in northern Maine with its other lines it was retaining.[4] Now, MMA wishes to assign those rights to EMR, a corporate affiliate of MNRC, as part of the larger transaction in Docket No. FD 35588 whereby MMA has agreed to sell its line in northern Maine to EMR. EMR states that, by assigning the trackage rights, a point of interchange between EMR and MNRC can be eliminated, thereby increasing the efficiency of rail operations within northern Maine.[5]

EMR states that the transaction will be consummated on the same date as consummation of the related acquisition and operation transaction in FD 35588, which is expected to be on March 19, 2012.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by March 9, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35598, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karyn A. Booth, Thompson Hine LLP, Suite 800, 1920 N Street NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Decided: February 28, 2012.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–5154 Filed 3–1–12; 8:45 am]

BILLING CODE 4915–01–P

[3] *See Me. N. Ry.—Modified Rail Certificate—In Aroostook and Penobscot Cntys. Me.,* FD 35521 (STB served June 15, 2011).

[4] *Montreal, Me. & Atl. Ry.—Trackage Rights Exemption—Me. N. Ry.,* FD 35505 (STB served May 27, 2011).

[5] Should EMR and MMA fail to consummate the line sale in Docket No. FD 35588, EMR states that it would withdraw this notice of exemption for the assignment of the MMA trackage rights.

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Name Change: White Mountains Reinsurance Company of America

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. ID to the Treasury Department Circular 570, 2011 Revision, published July 1, 2011, at 76 FR 38892.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that White Mountains Reinsurance Company of America (NAIC#38776) has changed its name to Sirius America Insurance Company effective September 10, 2011. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2011 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F01, Hyattsville, MD 20782.

Dated: February 21, 2012.

Laura Carrico,

Director, Financial Accounting and Services Division.

[FR Doc. 2012–4957 Filed 3–1–12; 8:45 am]

BILLING CODE 4810–35–M

FEDERAL REGISTER

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Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter I

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2012–0080, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–56; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–56. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005–56 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

LIST OF RULES IN FAC 2005–56

Item	Subject	FAR Case	Analyst
I	Women-Owned Small Business (WOSB) Program	2010–015	Morgan
II	Proper Use and Management of Cost-Reimbursement Contracts	2008–030	Clark
III	Requirements for Acquisitions Pursuant to Multiple-Award Contracts	2007–012	Clark
IV	Socioeconomic Program Parity	2011–004	Morgan
V	Trade Agreements Thresholds	2012–002	Davis
VI	New Designated Country (Armenia) and Other Trade Agreements Updates	2011–030	Davis
VII	Government Property	2010–009	Glover
VIII	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–56 amends the FAR as specified below:

Item I—Women-Owned Small Business (WOSB) Program (FAR Case 2010–015)

This rule adopts as final, with changes, an interim rule published in the **Federal Register** at 76 FR 18304 on April 1, 2011, which provides a tool to assist Federal agencies in achieving the 5 percent statutory goal for contracting with women-owned small businesses. This case is based on the Small Business Administration's (SBA) regulations establishing the Women-Owned Small Business (WOSB) Program, authorized under section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

Agencies may restrict competition to Economically Disadvantaged Women-Owned Small Business (EDWOSB) concerns, for contracts assigned a North American Industry Classification Systems (NAICS) code in an industry in which SBA has determined that WOSBs are underrepresented in Federal procurement. For NAICS code industries where WOSBs are not just underrepresented, but substantially underrepresented, agencies may restrict competition to either EDWOSB concerns or to WOSB concerns eligible under the WOSB Program.

EDWOSB concerns and WOSB concerns eligible under the WOSB Program must be owned and controlled by one or more women who are citizens of the United States. An EDWOSB concern is automatically a WOSB concern eligible under the WOSB Program.

This rule may positively affect EDWOSBs that participate in Federal procurement in industries where SBA determines that WOSBs are underrepresented and may positively affect WOSBs that participate in Federal procurement in industries where SBA determines that WOSBs are substantially underrepresented.

Item II—Proper Use and Management of Cost-Reimbursement Contracts (FAR Case 2008–030)

This final rule amends the FAR to implement section 864 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417), enacted on October 14, 2008. This law aligns with the President's goal of reducing high-risk contracting as denoted in the March 4, 2009, Presidential Memorandum on Government Contracting. Section 864 of the law requires amending the FAR to address the use and management of cost-reimbursement contracts in the following three areas:

1. Circumstances when cost-reimbursement contracts are appropriate.
2. Acquisition plan findings to support the selection of a cost-reimbursement contract.
3. Acquisition resources necessary to award and manage a cost-reimbursement contract.

This rule does not impose any information collection requirements on small business. There is no significant impact on small businesses because this rule is only applicable to internal operating procedures of the Government.

Item III—Requirements for Acquisitions Pursuant to Multiple-Award Contracts (FAR Case 2007–012)

This final rule adopts, with changes, an interim rule published in the **Federal Register** at 76 FR 14548 on March 16, 2011, that amended the FAR to implement section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417). Section 863 requires the FAR to be amended to enhance competition in the purchase of property and services by all executive agencies pursuant to multiple-award contracts (including Federal Supply Schedules (FSS)). This final rule requires an FSS ordering activity to conduct appropriate analysis and document the file to determine price

reasonableness when placing an order under a blanket purchase agreement (BPA) with hourly rate services. The final rule also removes the requirement for an ordering activity's competition advocate to approve a contracting officer's annual review of a single-award BPA prior to exercise of an option to extend the term of the BPA. This should benefit contractors because it removes a requirement that is considered to be a restriction on the use of FSS single-award BPAs.

Item IV—Socioeconomic Program Parity (FAR Case 2011–004)

This rule adopts as final, with changes, an interim rule published in the **Federal Register** at 76 FR 14566 on March 16, 2011, which implemented section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240). Section 1347(b) clarifies that there is no order of precedence among the small business socioeconomic programs. The FAR interim rule clarified the existence of socioeconomic parity and that contracting officers may exercise discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a) Business Development Program (8(a)), Historically Underutilized Business Zones (HUBZone) Program, Service-Disabled Veteran-Owned Small Business (SDVOSB) Program, or the Women-Owned Small Business (WOSB) Program. This final rule may have a positive impact on small businesses as it presents the maximum practicable opportunity for small business concerns qualified under the socioeconomic programs to participate in the performance of contracts, and assist Federal agencies in meeting each of the Government's small business contracting goals.

Item V—Trade Agreements Thresholds (FAR Case 2012–002)

This final rule adjusts the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to a formula set forth in the agreements. The threshold changes do not have significant cost or administrative impact, because they maintain the status quo by keeping pace with inflation.

Item VI—New Designated Country (Armenia) and Other Trade Agreements Updates (FAR Case 2011–030)

This final rule allows contracting officers to purchase the goods and services of Armenia without application of the Buy American Act if the acquisition is covered by the World Trade Organization Government Procurement Agreement. It also updates the lists of countries that are party to the Agreement on Trade in Civil Aircraft. This rule has no significant impact on small business concerns.

Item VII—Government Property (FAR Case 2010–009)

This final rule amends the FAR to clarify reporting, reutilization, and disposal of Government property and the contractor requirements under the Government property clause. The proposed rule was published on April 4, 2011 (76 FR 18497).

The rule specifically impacts contracting officers and contractors by clarifying disposal of Government property. The rule does not have a significant economic impact on small entities because the rule does not impose any additional requirements on small business.

Item VIII—Technical Amendments

Editorial changes are made at FAR 19.812, 42.203, and 52.209–9.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Federal Acquisition Circular (FAC) 2005–56 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–56 is effective March 2, 2012, except for Items I, II, III, IV, and VII which are effective April 2, 2012.

Dated: February 17, 2012.

Richard Ginman,

Director, Defense Procurement and Acquisition Policy.

Dated: February 15, 2012.

Mindy S. Connolly, CPCM,

Chief Acquisition Officer, U.S. General Services Administration.

Dated: February 15, 2012.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2012–4457 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 6, 13, 14, 15, 18, 19, 26, 33, 36, 42, 52, and 53

[FAC 2005–56; FAR Case 2010–015; Item I; Docket 2010–0015, Sequence 1]

RIN 9000–AL97

Federal Acquisition Regulation; Women-Owned Small Business (WOSB) Program

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Small Business Administration's regulations establishing the Women-Owned Small Business (WOSB) Program. This rule authorizes the restriction of competition for Federal contracts in certain industries to economically disadvantaged women-owned small business (EDWOSB) concerns or WOSB concerns eligible under the WOSB Program.

DATES: *Effective Date:* April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at 202–501–2364, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2010–015.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 76 FR 18304 on April 1, 2011, to implement the Small Business Administration (SBA) regulations at 13 CFR part 127 and the procedures authorized under section 8(m) of the Small Business Act, Public Law 85–536, (15 U.S.C. 637(m)). Seven respondents submitted comments on the interim rule. All respondents expressed support for the WOSB Program; however, some revisions to the WOSB Program were recommended. This final rule incorporates changes made in response to public comments as well as minor technical corrections.

On December 21, 2000, Congress enacted the Small Business Reauthorization Act of 2000 (Act), (Pub. L. 106–554). Section 811 of Appendix I of the Act amended the Small Business Act to provide for a procurement program for women-owned small business concerns. Today, this program is known as the Women-Owned Small Business (WOSB) Program. The purpose of the WOSB Program is to ensure that women-owned small business concerns have an equal opportunity to participate in Federal contracting and to assist agencies in achieving their women-owned small business concern participation goals.

Under the WOSB Program, contracting officers may restrict competition for Federal contracts to small business concerns owned and controlled by women, under certain conditions, including but not limited to: (1) The procurement requirement is in an industry the SBA has determined to be underrepresented or substantially underrepresented by small business concerns owned and controlled by women; and (2) small business concerns owned and controlled by women participating in the WOSB Program have met the Program's eligibility requirements. The contracting officer must expect that two or more concerns will submit offers; contract award will be made at a fair and reasonable price; and the anticipated award price of the contract (including options) will not exceed $6.5 million in the case of a contract assigned a North American Industry Classification System (NAICS) code for manufacturing, or $4 million, in the case of all other contracts. These figures are higher than the statute and SBA regulation figures because they are adjusted for inflation (see FAR 1.109).

Section 3(n) of the Small Business Act (15 U.S.C. 632(n)) broadly defines a small business concern owned and controlled by women as one that is at least 51 percent owned by one or more women (or in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more women) and whose management and daily business operations are controlled by one or more women. The Governmentwide goal for participation by small business concerns owned and controlled by women is 5 percent of the total value of all prime and subcontract awards (15 U.S.C. 644(g)). However, not all small business concerns owned and controlled by women are eligible to participate in the WOSB Program set forth in section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

The SBA established detailed criteria at 13 CFR 127.200, 127.201, 127.202, and 127.203 for the women-owned small businesses authorized under the Act to participate in the Program: EDWOSB concerns and WOSB concerns eligible under the WOSB Program. In contrast with the broader definition for women-owned small businesses provided at 15 U.S.C. 632(n), both EDWOSB concerns and WOSB concerns eligible under the WOSB Program must be no less than 51 percent unconditionally and directly owned by one or more women who are United States citizens. (Other WOSB Program-specific eligibility criteria are set forth in the SBA's regulations and FAR subpart 19.15.) Thus, EDWOSB concerns and WOSB concerns eligible under the WOSB Program are actually subcategories of the larger group of women-owned small business concerns.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Changes From the Interim Rule

This final rule makes minor changes to the interim rule. The term ''WOSB concern'' is corrected to ''WOSB concern eligible under the WOSB Program'' in the FAR and in the Standard Forms. The relevant Paperwork Reduction Act burden control number is added to the list at FAR 1.106.

B. Analysis of Public Comments

1. The WOSB Program Should Be Modeled After Current SBA Programs

Comment: One respondent commented that the WOSB Program should be modeled after current SBA programs and require either a self-certification or an SBA Certification where eligibility appears on the firm's Central Contractor Registration (CCR) database and Online Representations and Certifications Application (ORCA) profiles.

Response: The WOSB Program adheres to the authorizing statute, section 811 of the Small Business Reauthorization Act of 2000, Public Law 106–554, and SBA regulations. The statute permits both self-certifications by the concern and third-party certification from an entity approved by the SBA. In the SBA final rule the supporting legislative history stated that there was no intent to create a certification program similar to the one for the section 8(a) Business Development Program.

2. The WOSB Program Repository Is Burdensome

Comment: One respondent commented that the WOSB Program Repository is burdensome and to have companies register in CCR, ORCA and then a third system seems extraneous.

Response: The WOSB Program Repository is SBA's solution to facilitate the statutory requirement to provide documents verifying program eligibility. SBA established the repository so that WOSB concerns eligible under the WOSB Program and EDWOSB concerns would not have to submit documents each time they are the apparent successful offeror. The WOSB Program repository minimizes paperwork burden and increases oversight and program monitoring capabilities.

3. The WOSB Program Requirement To Submit Additional (and Sensitive) Documents Could Create a Disincentive for the Use of the Program

Comment: One respondent commented that the WOSB Program's requirement to submit personal information and the additional reviews on behalf of the Government might create a disincentive to utilize the program and contracting authority to the fullest extent possible.

Response: The certification and additional documentation requirements are necessary to meet the statutory provisions and regulatory requirements of the WOSB Program, and to ensure that only WOSB concerns eligible under the WOSB Program receive the benefits of the WOSB Program.

4. Dollar Thresholds and Eligibility Requirements

Comment: One respondent commented that the WOSB Program's EDWOSB limits and eligibility requirements need to be re-evaluated as the $750,000.00 threshold may be too low.

Response: The $750,000 personal net worth requirement was established by the SBA. See the SBA regulation at 13 CFR 127.203 for limitations and for exclusions, *e.g.,* primary personal residence, ownership interest in the EDWOSB concern, and retirement accounts.

5. Mentor-Protégé Program for WOSB Program

Comment: One respondent commented that the Councils should consider a Mentor-Protégé Program for the WOSB Program. Such a program

already exists for the section 8(a) program. A Mentor-Protégé Program would allow women-owned small businesses to learn from larger, more successful businesses.

Response: Under the Small Business Jobs Act of 2010, Public Law 111–240, SBA was given the authority to establish mentor-protégé programs for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, and HUBZone small business concerns modeled on the Mentor-Protégé Program of the SBA for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

6. Order of Precedence Among the WOSB Program and Other Small Business and Socioeconomic Contracting Programs

Comment: One respondent commented that the interim rule implementing the WOSB Program did not revise FAR 19.203(c) to include WOSB concerns eligible under the WOSB Program in the list of programs to be considered before using a small business set-aside pursuant to FAR 19.502–2(b). The interim rule, therefore, creates some uncertainty as to whether a contracting officer must first consider an acquisition under section 8(a), HUBZone, or service-disabled veteran-owned small business programs before he or she can properly set-aside an acquisition for competition among WOSB concerns eligible under the WOSB Program or EDWOSB concerns.

Response: The interim rule did revise FAR 19.203(c) by adding WOSB programs.

7. ''WOSB Concern'' Is Used Interchangeably With ''WOSB Concerns Eligible Under the WOSB Program''

Comment: One respondent commented that FAR subpart 19.15 appears to use the term ''WOSB concern'' interchangeably with ''WOSB concerns eligible under the WOSB Program.'' This is potentially confusing and may lead to a misrepresentation of eligibility by a non-eligible WOSB concern.

Response: Where applicable, for clarity and consistency, references to WOSB concern were revised to add ''eligible under the WOSB Program.''

8. Clarification Is Needed To Differentiate Between Eligibility Under the WOSB Program and Eligibility as a WOSB in General

Comment: One respondent commented that the terms ''Women-Owned Small Business Concern'' and ''Women-Owned Small Business (WOSB) Concern Eligible under the WOSB Program'' (in accordance with 13 CFR 127) should be clarified. It was further suggested that the legislative and regulatory history for these definitions should be provided in the Background section of the **Federal Register**.

Response: The ''Background'' of this final rule provides a brief legislative and regulatory history for the definitions of ''Women-Owned Small Business Concern'' and ''Women-Owned Small Business (WOSB) Concern Eligible under the WOSB Program.'' A more expansive historical perspective can be found in the SBA's proposed rule published in the **Federal Register** at 75 FR 10030 on March 4, 2010, and final rule published in the **Federal Register** at 75 FR 62258 on October 7, 2010.

C. Other changes

Other changes include a minor revision to the Optional Form (OF) 347, Order for Supplies and Services; Standard Form (SF) 1447, Solicitation/Contract; and the SF 1449, Solicitation/Contract/Order for Commercial Items, to add to the business classification for Women-Owned Small Business (WOSB) ''eligible under the WOSB Program.''

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule finalizes an interim rule that revised the FAR to implement section 8(m) of the Small Business Act, 15 U.S.C. 637(m), to provide a tool for Federal agencies to ensure equal opportunity, and thereby increases Federal procurement opportunities to Women-Owned Small Business (WOSB) concerns.

The objective of the final rule is to assist Federal agencies in eliminating barriers to the participation by women-owned small business concerns in Federal contracting, thereby achieving the Federal Government's goal of awarding five percent of Federal contract dollars to women-owned small business concerns, as provided in the Federal Acquisition Streamlining Act of 1994.

There were no significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis. No public comments were filed by the Chief Counsel for Advocacy of the Small Business Administration in response to this rule.

The Central Contractor Registration (CCR) database currently lists approximately 3,800 Small Disadvantaged Businesses (SDBs) owned and controlled by one or more women. While DoD, GSA, and NASA acknowledge that there may be other women-owned small business concerns in existence other than those listed in the CCR as being certified by SBA as SDBs, it is difficult to envision more than 6,000 women-owned small business concerns that could meet SBA's eligibility criteria and that are also ready, willing, and able to bid on Government contracts.

In addition, not all areas of Federal procurement have been designated as underrepresented or substantially underrepresented, and opportunities in some of the qualified industries may be limited. Consequently, many otherwise-qualified EDWOSB and WOSB concerns eligible under the WOSB Program may not find it advantageous to pursue contract opportunities under these procedures.

Contracting opportunities identified by Federal agencies as candidates to be set aside for WOSB concerns eligible under the WOSB Program (including EDWOSB concerns) will come from new contracting requirements and contracts currently performed by small and large business concerns. At this time, DoD, GSA, and NASA cannot accurately predict how the existing distribution of contracts by business type may change with this rule.

DoD, GSA, and NASA determined that this rule imposes new reporting and recordkeeping requirements. The certification process described in 13 CFR Subpart C, 127.300 to 127.302, is an information collection. The certification process requires a concern seeking to benefit from Federal contracting opportunities designated for WOSB concerns eligible under the WOSB Program or EDWOSB concerns to verify its status by providing documents to the WOSB Program Repository, submitting a certification to the WOSB Program Repository, and representing its status in an existing electronic contracting system (*i.e.,* Online Representations and Certifications Application (ORCA)). The WOSB concern eligible under the WOSB Program or EDWOSB concern will have to represent in ORCA that it meets each eligibility requirement of the program. Specifically, the WOSB concern eligible under the WOSB Program or EDWOSB concern will be required to submit certain documents verifying eligibility at the time of certification in ORCA (and every year thereafter). These documents will be submitted to a document

repository established by SBA. Further, the protest and eligibility examination procedures will require the submission of documents from those parties subject to a protest and eligibility examination. To reduce the burden on the WOSB concerns eligible under the WOSB Program or EDWOSB concerns, the same documents submitted at the time of certification will be used for the protests and eligibility examinations, except that for protests and eligibility examinations, SBA will also request copies of proposals submitted in response to a solicitation set-aside for WOSB concerns eligible under the WOSB Program or EDWOSB concerns and certain other documents and information to verify the status of an EDWOSB concern. Finally, this rule also requires the WOSB concerns eligible under the WOSB Program or EDWOSB concerns to retain copies of the documents submitted for a period of six (6) years. DoD, GSA, and NASA believe that any additional burden imposed by this recordkeeping requirement would be minimal since the firms would maintain the information in their general course of business.

This final rule minimizes the significant economic impact on small entities by allowing WOSB concerns eligible under the WOSB Program, including EDWOSB concerns, to be certified by a Federal agency, a State government, or a national certifying entity approved by the SBA. WOSB concerns eligible under the WOSB Program, including EDWOSB concerns, may also self-certify eligibility status to the contracting officer through submission of the required documentation in accordance with standards established by SBA. An alternative approach would have been to require EDWOSB concerns and WOSB concerns eligible under the WOSB Program to apply for formal certification. This alternative approach was ruled out as unnecessary, not required by statute, and too costly. DoD, GSA, and NASA believe that eligibility examinations and protest procedures incorporated into this final rule will minimize the likelihood of fraud and misrepresentation of status as a WOSB concern eligible under the WOSB Program or an EDWOSB concern. DoD, GSA, and NASA have decided that allowing self-certification and the option for firms to apply for certification from SBA-approved certifiers, when combined with random eligibility examinations and a formal protest procedure is a more viable approach than formal certification and greatly reduces the burden on small entities.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements. The Office of Management and Budget (OMB) has cleared this information collection requirement under OMB Control Number 3245–0374, titled: ''Certification for the Women-Owned Small Business Federal Contract Program.'' SBA's request is discussed in detail in its proposed rule that published in the **Federal Register** at 75 FR 10030 on March 4, 2010, and the final rule that published in the **Federal Register** at 75 FR 62258 on October 7, 2010.

List of Subjects in 48 CFR Parts 1, 2, 4, 6, 13, 14, 15, 18, 19, 26, 33, 36, 42, 52, and 53

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 2, 4, 6, 13, 14, 15, 18, 19, 26, 33, 36, 42, 52, and 53, which was published in the **Federal Register** at 76 FR 18304 on April 1, 2011, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 1, 2, 4, 18, 19, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106, in the table following the introductory text, by adding in numerical sequence, FAR segment ''52.219–29'' and its corresponding OMB Control Number ''3245–0374'', and FAR segment ''52.219–30'' and its corresponding OMB Control Number ''3245–0374''.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101, in paragraph (b)(2), in the definition ''Women-Owned Small Business (WOSB) Program'' by revising paragraph (3) to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Women-Owned Small Business (WOSB) Program. * * *

(3) *Women-owned small business (WOSB) concern eligible under the WOSB Program* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States (13 CFR part 127).

* * * * *

PART 4—ADMINISTRATIVE MATTERS

4.803 [Amended]

■ 4. Amend section 4.803 by removing from the introductory text of paragraph (a)(42) ''concerns or'' and adding ''concerns eligible under the WOSB Program or'' in its place.

PART 18—EMERGENCY ACQUISITIONS

18.117 [Amended]

■ 5. Amend section 18.117 by removing ''concerns on'' and adding ''concerns eligible under the WOSB Program on'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

■ 6. Amend section 19.201 by revising paragraph (d)(10) to read as follows:

19.201 General policy.

* * * * *

(d) * * *

(10) Make recommendations in accordance with agency procedures as to whether a particular acquisition should be awarded under subpart 19.5 as a small business set-aside, under subpart 19.8 as a section 8(a) award, under subpart 19.13 as a HUBZone set-aside, under subpart 19.14 as a service-disabled veteran-owned small business set-aside, or under subpart 19.15 as a set-aside for economically disadvantaged women-owned small business (EDWOSB) concerns or women-owned small business (WOSB) concerns eligible under the WOSB Program.

* * * * *

19.308 [Amended]

■ 7. Amend section 19.308 by removing from paragraphs (h)(2)(i) and (h)(3)(iv) ''concern, and'' and adding ''concern eligible under the WOSB Program, and'' in its place.

■ 8. Amend section 19.501 by revising the second sentence of paragraph (c) to read as follows:

19.501 General.

* * * * *

(c) * * * The contracting officer shall perform market research and document why a small business set-aside is inappropriate when an acquisition is not set aside for small business, unless

an award is anticipated to a small business under the 8(a), HUBZone, SDVOSB, or WOSB Programs. * * *

* * * * *

■ 9. Amend section 19.1500 by revising paragraph (b) and adding paragraph (c) to read as follows:

19.1500 General.

* * * * *

(b) The purpose of the WOSB Program is to ensure women-owned small business concerns have an equal opportunity to participate in Federal contracting and to assist agencies in achieving their women-owned small business participation goals (see 13 part CFR 127).

(c) An economically disadvantaged women-owned small business (EDWOSB) concern or WOSB concern eligible under the WOSB Program is a subcategory of ''women-owned small business concern'' as defined in 2.101.

■ 10. Revise section 19.1503 to read as follows:

19.1503 Status.

(a) Status as an EDWOSB concern or WOSB concern eligible under the WOSB Program is determined in accordance with 13 CFR part 127.

(b) The contracting officer shall verify that the offeror—

(1) Is registered in Central Contractor Registration (CCR);

(2) Is self-certified in the Online Representations and Certifications Application (ORCA); and

(3) Has submitted documents verifying its eligibility at the time of initial offer to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(c)(1) An EDWOSB concern or WOSB concern eligible under the WOSB Program that has been certified by a SBA approved third party certifier, (which includes SBA certification under the 8(a) Program), must provide the following eligibility requirement documents—

(i) The third-party certification;

(ii) SBA's WOSB Program Certification form (SBA Form 2413 for WOSB concerns eligible under the WOSB Program and SBA Form 2414 for EDWOSB concerns); and

(iii) The joint venture agreement, if applicable.

(2) An EDWOSB concern or WOSB concern eligible under the WOSB Program that has not been certified by an SBA approved third party certifier or by SBA under the 8(a) Program, must provide the following documents:

(i) The U.S. birth certificate, naturalization documentation, or unexpired U.S. passport for each woman owner.

(ii) The joint venture agreement, if applicable.

(iii) For limited liability companies, Articles of organization (also referred to as certificate of organization or articles of formation) and any amendments, and the operating agreement and any amendments.

(iv) For corporations, articles of incorporation and any amendments, by-laws and any amendments, all issued stock certificates, including the front and back copies, signed in accord with the by-laws, stock ledger, and voting agreements, if any.

(v) For partnerships, the partnership agreement and any amendments.

(vi) For sole proprietorships, corporations, limited liability companies and partnerships if applicable, the assumed/fictitious name certificate(s).

(vii) SBA's WOSB Program Certification form (SBA Form 2413 for WOSB concerns eligible under the WOSB Program and SBA Form 2414 for EDWOSB concerns).

(viii) For EDWOSB concerns, in addition to the above, the SBA Form 413, Personal Financial Statement, available to the public at *http://www.sba.gov/tools/Forms/index.html,* for each woman claiming economic disadvantage.

(d)(1) A contracting officer may accept a concern's self-certification as accurate for a specific procurement reserved for award under this subpart if—

(i) The apparent successful WOSB eligible under the WOSB Program or EDWOSB offeror provided the required documents;

(ii) There has been no protest or other credible information that calls into question the concern's eligibility as an EDWOSB concern or WOSB concern eligible under the WOSB Program; and

(iii) There has been no decision issued by SBA as a result of a current eligibility examination finding the concern did not qualify as an EDWOSB concern or WOSB concern eligible under the WOSB Program at the time it submitted its initial offer.

(2) The contracting officer shall file a status protest in accordance with 19.308 if—

(i) There is information that questions the eligibility of a concern; or

(ii) The concern fails to provide all of the required documents to verify its eligibility.

(e) If there is a decision issued by SBA as a result of a current eligibility examination finding that the concern did not qualify as an EDWOSB concern or WOSB concern eligible under the WOSB Program, the contracting officer may terminate the contract, and shall not exercise any option nor award further task or delivery orders. The contracting officer shall not count or include the award toward the small business accomplishments for an EDWOSB concern or WOSB concern eligible under the WOSB Program and must update FPDS from the date of award.

(f) A joint venture may be considered an EDWOSB concern or WOSB concern eligible under the WOSB Program if it meets the requirements of 13 CFR 127.506.

(g) An EDWOSB concern or WOSB concern eligible under the WOSB Program that is a non-manufacturer, as defined in 13 CFR 121.406(b), may submit an offer on a requirement set aside for an EDWOSB concern or a WOSB concern eligible under the WOSB Program with a NAICS code for supplies, if it meets the requirements under the non-manufacturer rule set forth in that regulation.

■ 11. Amend section 19.1505 by revising paragraphs (a), (c)(1), (d), and (f) to read as follows:

19.1505 Set-aside procedures.

(a) The contracting officer—

(1) Shall comply with 19.203 before deciding to set aside an acquisition under the WOSB Program.

(2) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to EDWOSB concerns or WOSB concerns eligible under the WOSB Program in those NAICS codes in which SBA has determined that WOSB concerns eligible under the WOSB program are underrepresented or substantially underrepresented in Federal procurement, as specified on SBA's Web site at *http://www.sba.gov/WOSB.*

* * * * *

(c) * * *

(1) Two or more WOSB concerns eligible under the WOSB Program (including EDWOSB concerns), will submit offers;

* * * * *

(d) The contracting officer may make an award, if only one acceptable offer is received from a qualified EDWOSB concern or WOSB concern eligible under the WOSB Program.

* * * * *

(f) If no acceptable offers are received from an EDWOSB concern or WOSB concern eligible under the WOSB Program, the set-aside shall be withdrawn and the requirement, if still valid, must be considered for set aside

in accordance with 19.203 and subpart 19.5.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 12. Amend section 52.212–3 by revising the date of the provision and paragraphs (c)(6)(ii), (c)(7)(i), and (c)(7)(ii) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS APR 2012

* * * * *

(c) * * *

(6) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:* _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) * * *

(i) It □ is, □ is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:* _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

* * * * *

■ 13. Amend section 52.212–5 by revising the date of the clause and paragraphs (b)(24) and (b)(25) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS APR 2012

* * * * *

(b) * * *

__ (24) 52.219–29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (4/2/12) (15 U.S.C. 637(m)).

__ (25) 52.219–30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (4/2/12) (15 U.S.C. 637(m)).

* * * * *

■ 14. Amend section 52.219–1 by revising the date of the provision and paragraphs (b)(4)(ii) and (b)(5)(ii) to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

SMALL BUSINESS PROGRAM REPRESENTATIONS APR 2012

* * * * *

(b) * * *

(4) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(4)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:* _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(5) * * *

(ii) It □ is, □ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (b)(5)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture:* _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

* * * * *

■ 15. Amend section 52.219–29 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (c)(3) ''EDWOSB concern'' and adding ''apparent successful offeror'' in its place; and

■ c. Removing from paragraph (f) ''An EDWOSB that'' and adding ''An EDWOSB concern that'' in its place.

The revised text reads as follows:

52.219–29 Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns.

* * * * *

NOTICE OF SET-ASIDE FOR ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS APR 2012

* * * * *

■ 16. Amend section 52.219–30 by—

■ a. Revising the date of the clause, paragraph (c), and the introductory text of paragraphs (d) and (e);

■ b. Removing from paragraph (e)(2) ''concern;'' and adding ''concern eligible under the WOSB Program;'' in its place;

■ c. Removing from paragraph (e)(3)(ii) ''WOSB as'' and adding ''WOSB concern eligible under the WOSB Program as'' in its place;

■ d. Revising paragraph (e)(5); and

■ e. Removing from paragraph (f) ''WOSB that'' and adding ''WOSB concern eligible under the WOSB Program that'' in its place.

The revised text reads as follows:

52.219–30 Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program.

* * * * *

NOTICE OF SET-ASIDE FOR WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM APR 2012

* * * * *

(c) *General.* (1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB program shall not be considered.

(2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Agreement.* A WOSB concern eligible under the WOSB Program agrees that in the performance of the contract for— * * *

* * * * *

(e) *Joint Venture.* A joint venture may be considered a WOSB concern eligible under the WOSB Program if—

* * * * *

(5) The procuring activity executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

* * * * *

PART 53—FORMS

53.212 [Amended]

■ 17. Amend section 53.212 by removing ''*SF 1449, (Rev. 10/2010)*'' and adding ''*SF 1449 (Rev. 2/2012)*'' in its place.

53.213 [Amended]

■ 18. Amend section 53.213 by removing from paragraph (a) ''*SF 1449, (Rev. 10/2010)*'' and adding ''*SF 1449 (Rev. 2/2012)*'' in its place; and by removing from paragraph (f) ''*SF 1449, (Rev. 10/2010)*'' and ''*OF 347, (Rev. 10/*

2010)'' and adding ''*SF 1449 (Rev. 2/2012)*'' and ''*OF 347 (Rev. 2/2012)*'' in their place, respectively.

53.214 [Amended]

■ 19. Amend section 53.214 by removing from paragraph (d) ''*SF 1447 (Rev. 11/2010)*'' and adding ''*SF 1447 (Rev. 2/2012)*'' in its place.

53.236–1 [Amended]

■ 20. Amend section 53.236–1 by removing from paragraph (e) ''*OF 347 (Rev. 10/2010)*'' and adding ''*OF 347 (Rev. 2/2012)*'' in its place.

■ 21. Revise section 53.301–1447 to read as follows:

53.301–1447 Solicitation/Contract

BILLING CODE 6820–EP–P

SOLICITATION/CONTRACT
BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) | RATING | PAGE OF

2. CONTRACT NO. | 3. AWARD/EFFECTIVE DATE | 4. SOLICITATION NUMBER | 5. SOLICITATION TYPE ☐ SEALED BIDS (IFB) ☐ NEGOTIATED (RFP) | 6. SOLICITATION ISSUE DATE

7. ISSUED BY CODE NO COLLECT CALLS

8. THIS ACQUISITION IS ☐ UNRESTRICTED OR ☐ SET ASIDE: % FOR:
☐ SMALL BUSINESS ☐ WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOSB PROGRAM
☐ HUBZONE SMALL BUSINESS ☐ EDWOSB
☐ SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS NAICS:
☐ 8(A) SIZE STANDARD:

9. (AGENCY USE)

10. ITEMS TO BE PURCHASED *(BRIEF DESCRIPTION)*
☐ SUPPLIES ☐ SERVICES

11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLOCK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.

12. ADMINISTERED BY CODE

13. CONTRACTOR OFFEROR CODE FACILITY CODE
TELEPHONE NUMBER DUNS NUMBER
☐ CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

14. PAYMENT WILL BE MADE BY CODE
SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK:

15. PROMPT PAYMENT DISCOUNT

16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION ☐ 10 U.S.C. 2304 ( ) ☐ 41 U.S.C. 253 ( )

17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT

23. ACCOUNTING AND APPROPRIATION DATA

24. TOTAL AWARD AMOUNT *(FOR GOVERNMENT USE ONLY)*

25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

27. SIGNATURE OF OFFEROR/CONTRACTOR

28. UNITED STATES OF AMERICA *(SIGNATURE OF CONTRACTING OFFICER)*

NAME AND TITLE OF SIGNER *(TYPE OR PRINT)* | DATE SIGNED | NAME OF CONTRACTING OFFICER | DATE SIGNED

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PREVIOUS EDITION NOT USABLE

STANDARD FORM 1447 (REV. 2/2012)
Prescribed by GSA - FAR (48 CFR) 53.214(d)

NO RESPONSE FOR REASONS CHECKED			
	CANNOT COMPLY WITH SPECIFICATIONS		CANNOT MEET DELIVERY REQUIREMENT
	UNABLE TO IDENTIFY THE ITEM(S)		DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
	OTHER *(Specify)*		
	WE DO		WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEMS INVOLVED

NAME AND ADDRESS OF FIRM *(Include Zip Code)*	SIGNATURE
	TYPE OR PRINT NAME AND TITLE OF SIGNER

FROM:

AFFIX
STAMP
HERE

TO:

SOLICITATION NO. _____

DATE AND LOCAL TIME _____

STANDARD FORM 1447 (REV. 2/2012) **BACK**

■ 22. Revise section 53.301–1449 to read as follows:

53.301–1449 Solicitation/Contract/Order for Commercial Items.

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER | PAGE 1 OF

2. CONTRACT NO. | 3. AWARD/EFFECTIVE DATE | 4. ORDER NUMBER | 5. SOLICITATION NUMBER | 6. SOLICITATION ISSUE DATE

7. FOR SOLICITATION INFORMATION CALL: | a. NAME | b. TELEPHONE NUMBER *(No collect calls)* | 8. OFFER DUE DATE/ LOCAL TIME

9. ISSUED BY | CODE

10. THIS ACQUISITION IS ☐ UNRESTRICTED OR ☐ SET ASIDE: % FOR:
☐ SMALL BUSINESS
☐ HUBZONE SMALL BUSINESS
☐ SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS
☐ WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM
☐ EDWOSB
☐ 8 (A)
NAICS:
SIZE STANDARD:

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED ☐ SEE SCHEDULE | 12. DISCOUNT TERMS | ☐ 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) | 13b. RATING | 14. METHOD OF SOLICITATION ☐ RFQ ☐ IFB ☐ RFP

15. DELIVER TO | CODE | 16. ADMINISTERED BY | CODE

17a. CONTRACTOR/ OFFEROR | CODE | FACILITY CODE | 18a. PAYMENT WILL BE MADE BY | CODE

TELEPHONE NO.

☐ 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED ☐ SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	(Use Reverse and/or Attach Additional Sheets as Necessary)				

25. ACCOUNTING AND APPROPRIATION DATA | 26. TOTAL AWARD AMOUNT *(For Govt. Use Only)*

☐ 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED
☐ 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED

☐ 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

☐ 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR | 31a. UNITED STATES OF AMERICA *(SIGNATURE OF CONTRACTING OFFICER)*

30b. NAME AND TITLE OF SIGNER *(Type or print)* | 30c. DATE SIGNED | 31b. NAME OF CONTRACTING OFFICER *(Type or print)* | 31c. DATE SIGNED

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STANDARD FORM 1449 (REV. 2/2012)
Prescribed by GSA - FAR (48 CFR) 53.212

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
☐ PARTIAL ☐ FINAL			☐ COMPLETE ☐ PARTIAL ☐ FINAL	

38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY *(Print)*	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT *(Location)*	
		42c. DATE REC'D *(YY/MM/DD)*	42d. TOTAL CONTAINERS

STANDARD FORM 1449 (REV. 2/2012) **BACK**

■ 23. Revise section 53.302–347 to read as follows:

53.302–347 Order for Supplies or Services.

ORDER FOR SUPPLIES OR SERVICES

PAGE OF PAGES

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

1. DATE OF ORDER
2. CONTRACT NO. *(If any)*
3. ORDER NO.
4. REQUISITION/REFERENCE NO.
5. ISSUING OFFICE *(Address correspondence to)*

6. SHIP TO:
a. NAME OF CONSIGNEE
b. STREET ADDRESS
c. CITY
d. STATE
e. ZIP CODE
f. SHIP VIA

7. TO:
a. NAME OF CONTRACTOR
b. COMPANY NAME
c. STREET ADDRESS
d. CITY
e. STATE
f. ZIP CODE

8. TYPE OF ORDER
☐ a. PURCHASE
REFERENCE YOUR: _____
Please furnish the following on the terms and conditions specified on both sides of this order and on the attached sheet, if any, including delivery as indicated.

☐ b. DELIVERY – Except for billing instructions on the reverse, this delivery order is subject to instructions contained on this side only of this form and is issued subject to the terms and conditions of the above-numbered contract.

9. ACCOUNTING AND APPROPRIATION DATA

10. REQUISITIONING OFFICE

11. BUSINESS CLASSIFICATION (*Check appropriate box(es)*)
☐ a. SMALL ☐ b. OTHER THAN SMALL ☐ c. DISADVANTAGED ☐ d. WOMEN-OWNED ☐ e. HUBZone
☐ f. SERVICE-DISABLED VETERAN-OWNED ☐ g. WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOSB PROGRAM ☐ h. EDWOSB

12. F.O.B. POINT

13. PLACE OF
a. INSPECTION
b. ACCEPTANCE

14. GOVERNMENT B/L NO.

15. DELIVER TO F.O.B. POINT ON OR BEFORE *(Date)*

16. DISCOUNT TERMS

17. SCHEDULE *(See reverse for Rejections)*

ITEM NO. (a)	SUPPLIES OR SERVICES (b)	QUANTITY ORDERED (c)	UNIT (d)	UNIT PRICE (e)	AMOUNT (f)	QUANTITY ACCEPTED (g)

SEE BILLING INSTRUCTIONS ON REVERSE

18. SHIPPING POINT
19. GROSS SHIPPING WEIGHT
20. INVOICE NO.

21. MAIL INVOICE TO:
a. NAME
b. STREET ADDRESS *(or P.O. Box)*
c. CITY
d. STATE
e. ZIP CODE

17(h) TOT. *(Cont. pages)*

$ **17(i) GRAND TOTAL**

22. UNITED STATES OF AMERICA BY *(Signature)*

23. NAME *(Typed)*
TITLE: CONTRACTING/ORDERING OFFICER

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PREVIOUS EDITION NOT USABLE

OPTIONAL FORM 347 (REV. 2/2012)
Prescribed by GSA/FAR 48 CFR 53.213(f)

SUPPLEMENTAL INVOICING INFORMATION

If desired, this order (or a copy thereof) may be used by the Contractor as the Contractor's invoice, instead of a separate invoice, provided the following statement, (signed and dated) is on (or attached to) the order: "Payment is requested in the amount of $ _____ . No other invoice will be submitted." However, if the Contractor wishes to submit an invoice, the following information must be provided: contract number (if any), order number, item number(s), description of supplies or service, sizes, quantities, unit prices, and extended totals. Prepaid shipping costs will be indicated as a separate item on the invoice. Where shipping costs exceed $10 (except for parcel post), the billing must be supported by a bill of lading or receipt. When several orders are invoiced to an ordering activity during the same billing period, consolidated periodic billings are encouraged.

RECEIVING REPORT

Quantity in the "Quantity Accepted" column on the face of this order has been: ☐ inspected, ☐ accepted, ☐ received by me and conforms to contract. Items listed below have been rejected for the reasons indicated.

SHIPMENT NUMBER	PARTIAL		DATE RECEIVED	SIGNATURE OF AUTHORIZED U.S. GOV'T REP.	DATE
	FINAL				
TOTAL CONTAINERS		GROSS WEIGHT	RECEIVED AT	TITLE	

REPORT OF REJECTIONS

ITEM NO.	SUPPLIES OR SERVICES	UNIT	QUANTITY REJECTED	REASON FOR REJECTION

OPTIONAL FORM 347 (REV. 2/2012) **BACK**

[FR Doc. 2012–4475 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 7, 16, 32, 42, and 50

[FAC 2005–56; FAR Case 2008–030; Item II; Docket 2011–0082, Sequence 1]

RIN 9000–AL78

Federal Acquisition Regulation; Proper Use and Management of Cost-Reimbursement Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 that addresses the use and management of cost-reimbursement contracts.

DATES: *Effective Date:* April 2, 2012

FOR FURTHER INFORMATION CONTACT: Mr. William Clark, Procurement Analyst, at 202–219–1813, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2008–030.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 76 FR 14543 on March 16, 2011, to implement section 864 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (NDAA) (Pub. L. 110–417) enacted on October 14, 2008. This law aligns with the President's goal of reducing high-risk contracting as denoted in the March 4, 2009, Presidential Memorandum on Government Contracting. Section 864 of the law requires amending the FAR to address the use and management of cost-reimbursement contracts in the following three areas:

1. Circumstances when cost-reimbursement contracts are appropriate.
2. Acquisition plan findings to support the selection of a cost-reimbursement contract.
3. Acquisition resources necessary to award and manage a cost-reimbursement contract.

Six respondents submitted comments in response to the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

Comment: One respondent expressed a preference for continued reliance on OMB Circular A–133 Audits of States, Local Governments and Non-Profit Organizations to determine and monitor the adequacy of an educational institution or nonprofit organization's accounting system during the performance of cost-type contracts.

Response: The rule does not prevent reliance on OMB Circular A–133 to determine and monitor the adequacy of an educational institution or nonprofit organization's accounting system during the performance of cost-type contracts.

Comment: A number of respondents asked for clarification of whether the appointment of a contracting officer's representative (COR) is now mandatory for other than firm-fixed-price contracts.

Response: A COR is required on all contracts and orders other than those that are firm-fixed-price, and for firm-fixed-price contracts, as appropriate. The Government applies this requirement to all contract types except firm-fixed-price contracts.

Comment: One respondent referenced FAR 16.103(d)(1) stating ''Each contract file shall include documentation to show why the particular contract type was selected. This shall be documented in the acquisition plan, or if a written acquisition plan is not required, in the contract file.'' The respondent recommended clarifying the circumstances when a formal acquisition plan would not be required.

Response: There are circumstances, such as low dollar thresholds or non-complex contracts, which are set forth in agency procedures, when a formal acquisition plan is not required. However, if a written acquisition plan is not required, the contract type selection must still be documented in the contract file.

Comment: One respondent expressed support for the interim rule and stated an opinion that cost-plus-incentive-fee is the best contract type for the Government and U.S. taxpayer, particularly when in a sole-source environment.

Response: Contracting officers are required to determine the appropriate contract type that is in the best interests of the Government.

Comment: One respondent recommended that the final rule be written so as to exempt research and development (R&D) contracts from the requirements. The respondent questioned the necessity of the documentation requirements set forth in this rule for R&D contracts. Further, the respondent questioned the necessity of assigning CORs to R&D contracts, since contracting officers generally retain such duties.

Response: Section 864 does not provide for an exception for R&D contracts under this rule. Each contract file shall include documentation to show why the particular contract type was selected, in order to ensure the appropriate contract type is utilized. Specifically for high risk contracts such as R&D contracts it is necessary to discuss the Government's additional risks and the burden to manage the contract type selected. Contracting officers are not precluded under this rule from retaining COR duties.

Comment: One respondent recommended that the Councils reset the effective date of the interim rule to permit training and designation of CORs and revision of internal guidance and templates.

Response: The statute does not provide for a grace period to permit training and designation of CORs and revision of internal guidance and templates.

Comment: One respondent commented that the interim rule interferes with the contracting officer's discretion in selecting the appropriate contract type, and imposes a documentation burden that may not be effective in actually reducing the risk to the Government.

Response: The rule does not interfere with the contracting officer's discretion to select the appropriate contract type. It merely clarifies when cost-reimbursement contracts are appropriate and requires the contracting officer to document the rationale for the decision.

Comment: One respondent questioned the applicability of the rule to other than firm-fixed price contracts, and specifically for supply type contracts. The respondent questioned whether the term ''other than firm-fixed price contracts'' means only cost-reimbursement, time-and-material, and labor-hour contracts.

Response: The term ''other than firm-fixed price contracts'' means all contract types other than firm-fixed price contracts, including supply type contracts.

Comment: One respondent recommended the contracting officer be required to make a written determination in order to retain and execute the COR duties. Further the respondent recommended delaying the designation of the COR until the contractor or potential contractor is identified and the terms and conditions of the contract are known.

Response: Contracting officers are not required to make formal written determinations in order to retain their existing duties and responsibilities. However, when the appointment of CORs is necessary, in order to ensure adequate resources are available to monitor and manage other than firm-fixed price contracts, CORs must be nominated as early as practicable. It would not be in the Government's best interest to delay such appointments.

III. Changes in the Final Rule

The following changes were made in the final rule:

(1) FAR 1.602–2(d) was revised to clarify that COR duties may be retained by contracting officers; the language has been revised and moved to the first sentence.

(2) FAR 1.602–2(d)(1), (3), and (6) were modified to make administrative revisions.

(3) At FAR 1.602–2(d)(2), the word ''current'' has been added and the words ''dated November 26, 2007'' have been removed. Additionally, the phrase ''or for DoD, DoD Regulations as applicable'' has been replaced by the phrase ''or for DoD, in accordance with the current applicable DoD policy guidance.''

(4) With regard to nomination of a COR, FAR 7.104(e) was modified to delete ''and designated and authorized by the contracting officer'' because it is redundant to language in the following sentence.

(5) FAR 16.103(d)(1) was revised to make an administrative change. The phrase ''in the contract file'' was moved from the end of the sentence to the middle of the sentence for clarity. The words ''by agency procedures'' were also added for clarity.

(6) Because the need to document the contract file with regard to selection of contract type is already adequately addressed in FAR 16.103(d)(1), FAR 16.301–2(b) was revised to remove the next to last sentence, ''If a written acquisition plan is not required, the contracting officer shall document the rationale in the contract file.''

(7) FAR 16.301–3(a)(4) has been modified to add at the beginning ''Prior to award of the contract or order,'' with regard to the requirement for availability of adequate Government resources to award and manage a contract other than firm-fixed price. FAR 16.301–3(a)(4) is further modified to delete the previous (a)(4)(i) (designation of COR is addressed elsewhere) and make the old (a)(4)(ii) the second sentence of (a)(4). The previous (a)(4)(ii) language has been revised to read, ''This includes appropriate Government surveillance during performance in accordance with 1.602–2, to provide reasonable assurance that efficient methods and effective cost controls are used.''

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because section 864 affects only internal Government operations and requires the Government to establish internal guidance on the proper use and management of all contracts especially other than firm-fixed-price contracts (*e.g.,* cost-reimbursement, time-and-material, and labor-hour) and does not impose any additional requirements on small businesses. Therefore, a Final Regulatory Flexibility Analysis has not been performed.

VI. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1, 2, 7, 16, 32, 42, and 50

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 1, 2, 7, 16, 32, 42, and 50 which was published in the **Federal Register** at 76 FR 14543 on March 16, 2011, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 1, 7, and 16 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 2. Amend section 1.602–2 by—

■ a. Revising the introductory text of paragraph (d), and paragraphs (d)(1), (d)(2), and (d)(3); and

■ b. Removing from paragraph (d)(6) ''Must'' and adding ''Shall'' in its place.

The revised text reads as follows:

1.602–2 Responsibilities.

* * * * *

(d) Unless the contracting officer retains and executes the contracting officer's representative (COR) duties, in accordance with agency procedures, designate and authorize, in writing, a COR on all contracts and orders other than those that are firm-fixed price, and for firm-fixed-price contracts and orders as appropriate. See 7.104(e). A COR—

(1) Shall be a Government employee, unless otherwise authorized in agency regulations;

(2) Shall be certified and maintain certification in accordance with the current Office of Management and Budget memorandum on the Federal Acquisition Certification for Contracting Officer Representatives (FAC-COR) guidance, or for DoD, in accordance with the current applicable DoD policy guidance;

(3) Shall be qualified by training and experience commensurate with the responsibilities to be delegated in accordance with agency procedures;

* * * * *

PART 7—ACQUISITION PLANNING

7.104 [Amended]

■ 3. Amend section 7.104 by removing from paragraph (e) '', and designated

and authorized by the contracting officer,''.

PART 16—TYPES OF CONTRACTS

■ 4. Amend section 16.103 by revising the second sentence of paragraph (d)(1) introductory text to read as follows:

16.103 Negotiating contract type.

* * * * *

(d) * * *

(1) * * * This shall be documented in the acquisition plan, or in the contract file if a written acquisition plan is not required by agency procedures.

* * * * *

16.301–2 [Amended]

■ 5. Amend section 16.301–2 by removing the second sentence from paragraph (b).

■ 6. Amend section 16.301–3 by—

■ a. Removing from paragraph (a)(3) ''contract;'' and adding ''contract or order;'' in its place; and

■ b. Revising paragraph (a)(4).

The revised text reads as follows:

16.301–3 Limitations.

(a) * * *

(4) Prior to award of the contract or order, adequate Government resources are available to award and manage a contract other that firm-fixed-priced (see 7.104(e)). This includes appropriate Government surveillance during performance in accordance with 1.602–2, to provide reasonable assurance that efficient methods and effective cost controls are used.

* * * * *

[FR Doc. 2012–4481 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 8, 16, 18, and 38

[FAC 2005–56; FAR Case 2007–012; Item III; Docket 2011–0081, Sequence 1]

RIN 9000–AL93

Federal Acquisition Regulation: Requirements for Acquisitions Pursuant to Multiple-Award Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 to enhance competition in the purchase of supplies and services by all executive agencies under multiple-award contracts.

DATES: *Effective Date:* April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. William Clark, Procurement Analyst, at 202–219–1813 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2007–012.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 76 FR 14548 on March 16, 2011, to implement section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417), enacted on October 14, 2008. Section 863 mandated the development and publication of regulations in the FAR to enhance competition for the award of orders placed under multiple-award contracts. Section 863 specified enhancements that include—

- Strengthening competition rules for placing orders under the Federal Supply Schedules (FSS) program and other multiple-award contracts to ensure both the provision of fair notice to contract holders and the opportunity for contract holders to respond (similar to the procedures implemented for section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107–107)); and
- Providing notice in FedBizOpps of certain orders placed under multiple-award contracts, including FSS.

For each individual purchase of supplies or services in excess of the simplified acquisition threshold (SAT) that is made under a multiple-award contract, section 863 requires the provision of fair notice of intent to make a purchase (including a description of the work to be performed and the basis on which the selection will be made) to all contractors offering such supplies or services under the multiple-award contract. In addition, the statute requires that all contractors responding to the notice be afforded a fair opportunity to make an offer and have that offer fairly considered by the purchasing official. A notice may be provided to fewer than all contractors offering such supplies or services under a multiple-award contract if the notice is provided to as many contractors as practicable. When notice is provided to fewer than all the contractors, a purchase cannot be made unless—

- Offers were received from at least three qualified contractors; or
- A contracting officer determines in writing that no additional qualified contractors were able to be identified despite reasonable efforts to do so.

These requirements may be waived on the basis of a justification, including a written determination identifying the statutory basis for an exception to fair opportunity, that is prepared and approved at the levels specified in the FAR.

In considering the regulatory changes to strengthen the use of competition in task and delivery-order contracts, DoD, GSA, and NASA made changes consistent with the general competition principles addressed in the President's March 4, 2009, Memorandum on Government Contracting (available at *http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-Subject-Government*), while still preserving the efficiencies of these contract vehicles. For this reason, the rule addressed several issues that were not expressly addressed in section 863, such as competition for the establishment and placement of orders under FSS blanket purchase agreements (BPAs).

The FAR changes are applicable to task and delivery orders placed against multiple-award contracts including FSS and BPAs awarded under FSS pursuant to FAR subpart 8.4, and indefinite-delivery/indefinite-quantity contracts awarded pursuant to subpart 16.5. They do not apply to BPAs awarded pursuant to part 13.

Seven respondents submitted comments on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. Respondents submitted comments covering the following nine categories: (1) Conformance with the Small Business Jobs Act; (2) The $103 million threshold reference; (3) Posting requirements; (4) Eliminate distinctions between single-award and multiple-award BPAs; (5) Competition requirements for establishing BPAs and allowing flexibility in establishing BPA ordering procedures; (6) BPA requirements and health-care programs; (7) Competition above the SAT is a

burden; (8) Seeking price reduction is inconsistent with competition; and (9) Modify FSS contracts to change the Maximum Order Threshold (MOT) to the SAT. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

- FAR 8.405–3(a)(7)(v) was modified to correct an inadvertent error regarding the threshold amount. The amount should have read $103 million in the interim rule. The amount has been corrected to read $103 million in the final rule to reflect inflation.
- FAR 8.405–3(c)(3) has been revised to add at the end of paragraph (3) ''The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable through appropriate analysis techniques, and documenting the file accordingly.'' This was added to ensure the price of an order requiring a statement of work is being evaluated when placed under a BPA with hourly rate services. This language is also consistent with the evaluation of orders requiring a statement of work in FAR 8.405–2(d).
- FAR 8.405–3(e) has been revised to remove paragraph (3), ''If a single-award BPA is established, the ordering activity contracting officer's annual determination must be approved by the ordering activity's competition advocate prior to the exercise of an option to extend the term of the BPA.'' This was determined to be too stringent a requirement for the exercise of an option, which is generally within a contracting officer's authority.

B. Analysis of Public Comments

1. Conformance With the Small Business Jobs Act

Comment: One respondent asked how the interim rule reconciles with the requirements of the Small Business Jobs Act of 2010, part III, section 1331 (Reservation of Prime Contracts for Small Businesses).

Response: This rule is not impacted by the requirements of section 1331 of the Small Business Jobs Act of 2010.

2. The $103 Million Threshold

Comment: Two respondents made reference to the $100 million threshold at FAR 8.405–3(a)(7)(v). They stated that it should be $103 million to be consistent with FAR 8.405–3(a)(3)(ii).

Response: The threshold should be $103 million in all places. The correction has been made to the FAR text.

3. Posting Requirements

Comment: Two respondents submitted comments on the posting requirements. One of the respondents asked what purpose is served by posting fair opportunity exemptions to the FedBizOpps Web site. The respondent noted that fair opportunity exemptions are posted after orders are placed and will be viewed by many parties that do not hold contracts under the relevant multiple-award acquisitions. The respondent suggested that this practice may result in needless challenges and litigation by parties that do not have standing to challenge the exemptions. The other respondent stated that it seemed that the posting requirements provided at FAR 5.301(d) are exactly the same as those provided at FAR 5.406. The respondent suggested that it seemed unnecessary to list the requirement in two different places in the FAR. As such, the respondent recommended removing FAR 5.406.

Response: The requirement to post exceptions to fair opportunity to FedBizOpps is required by section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417). Further, regarding the duplicative posting requirements at FAR 5.301(d) and FAR 5.406, the Councils concluded that the multiple references would provide for clarity in implementation. The Councils also concluded that posting the justifications for exceptions to the competition requirements provides transparency into agency purchases.

4. Eliminate Distinctions Between Single-Award and Multiple-Award BPAs

Comment: One respondent stated that FAR 8.405–3(a) of the interim rule should be revised to place single-award BPAs on par with multiple-award BPAs. The respondent indicated that FAR 8.405–3 does not limit multiple-award BPAs to a one-year base and up to four one-year options, as required for single-award BPAs, nor does it require approval of the competition advocate to extend a multiple-award BPA. The respondent further stated the regulation should be revised to provide that the decision to use a single-award BPA versus a multiple-award BPA be documented and addressed in the acquisition plan for the BPA with the factors to be considered.

Response: The rule includes a preference for multiple-award BPAs, but does not prohibit the establishment of a single-award BPA. A single-award BPA is appropriate in certain circumstances. The multiple-award preference is intended to facilitate and enhance competition involving orders placed under FSS BPAs. The Councils concluded that the limit on the duration for single-award BPAs supports the preference for multiple-award BPAs and competition. However, the requirement for competition advocate approval at the annual review of a single-award BPA has been removed for the final rule. The contracting officer's determination whether to establish a single-award BPA or multiple-award BPAs must be documented in the file in accordance with FAR 8.405–3(a)(7).

5. Competition Requirements for Establishing BPAs and Allowing Flexibility in Establishing BPA Ordering Procedures

Comment: One respondent recommended that the interim rule be revised to provide greater flexibility in the establishment of multiple-award BPAs and the placement of orders under BPAs. The respondent noted that the rules previously allowed the agency establishing a BPA to establish its own BPA ordering procedures, and that this allowed agencies such as the Department of Veterans Affairs and the Department of Defense Enterprise Software Initiative to craft flexible ordering procedures that made good business sense under their unique circumstances.

Response: This rule provides flexibility in the establishment of FSS BPAs and the placement of orders under FSS BPAs. The rule includes the flexibility to justify an exception to the competition requirements at either the FSS BPA or order level. The procedures provided in the rule for the establishment of FSS BPAs and placement of the orders thereunder are intended to enhance competition. This is consistent with section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417) and the general competition principles addressed in the President's March 4, 2009, Memorandum on Government Contracting, while still preserving the efficiencies provided by these contract vehicles.

6. BPA Requirements and Health-Care Programs

Comment: One respondent recommended that Schedules covering drugs and medical supplies be excluded from the rule.

Response: The statute does not allow for an exclusion of FSS covering drugs and medical supplies.

7. Competition Above the SAT Is a Burden

Comment: Two respondents thought that competition above the SAT level is too burdensome. One respondent recommended that the threshold at which formal competition procedures are triggered should be the greater of the MOT or SAT. The respondent also suggested that this rule will increase administrative burden and cost to both the Government and FSS holders. Another respondent noted that multiple-award contracts are designed to offer agencies a streamlined mechanism for acquiring services and supplies. The respondent stated that the procedures set forth in the interim rule would significantly increase the time required for placing orders in situations where a valid reason exists to utilize an exception to the fair opportunity requirement. According to the respondent, it is not clear that adding these requirements will have the intended effect of meaningfully increasing competition under multiple-award contracts.

Response: The use of the SAT as the threshold is required by statute (section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417)).

8. Seeking Price Reduction Is Inconsistent With Competition

Comment: One respondent stated that the requirement that contracting officers seek a price reduction when placing an order over the SAT is inconsistent with the requirement that purchase orders over the SAT be competed. The FAR is built, in part, on the concept that competition drives a fair and reasonable price. As such, it is unclear, from the respondent's perspective, why contracting officers should be required to seek a further price reduction after a competitive procurement is awarded because the successful contractor has already provided its best price in order to win the procurement. The respondent argued that this requirement will likely result in contractors preparing their original price list in anticipation of multiple layers of price negotiation during the competitive procurement process and thereafter.

Response: Pursuant to the Government Accountability Office (GAO) report number GAO–09–792 entitled ''Agencies are not Maximizing Opportunities for Competition or Savings Under BPAs Despite Significant Increase in Usage,'' requesting a price reduction is not inconsistent with competition. A contracting officer can meet this requirement at any time via a solicitation, or anytime thereafter. This rule does not require the contractor to reduce its prices when asked to do so by the Government.

9. Modify FSS Contracts To Change the MOT to the SAT

Comment: One respondent stated that the old FAR subpart 8.4 ordering procedures and the price reduction clause (PRC) reflected the balance between competition and price reductions above the MOT versus compliance with the PRC. The PRC recognized that the PRC remedies were not necessary above the MOT, where competition and requests for price reductions were required by the old FAR subpart 8.4. According to the respondent, the new FAR subpart 8.4 ordering procedures have replaced the MOT with the simplified acquisition threshold and, as such, there should be a corresponding change in the contracts.

Response: The respondent's suggestion is out of the scope of this rule. The suggestion has been forwarded to the GSA Federal Acquisition Service for consideration.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense (DoD), the General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA) certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule does not revise or change existing regulations pertaining specifically to small business concerns seeking Government contracts. DoD, GSA, and NASA believe the final rule should benefit small entities by encouraging and enhancing competition.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 5, 8, 16, 18, and 38

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted As Final With Changes

Accordingly, the interim rule amending 48 CFR parts 5, 8, 16, 18, and 38 which was published in the **Federal Register** at 76 FR 14548 on March 16, 2011, is adopted as final with the following changes:

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

■ 1. The authority citation for 48 CFR part 8 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 8.405–3 by removing from paragraph (a)(7)(v) ''$100 million'' and adding ''$103 million'' in its place; adding a new sentence to the end of paragraph (c)(3); and removing paragraph (e)(3). The added text reads as follows:

8.405–3 Blanket purchase agreements (BPAs).

* * * * *

(c) * * *

(3) * * * The ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered, and for determining that the total price is reasonable through appropriate analysis techniques, and documenting the file accordingly.

* * * * *

[FR Doc. 2012–4485 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 13 and 19

[FAC 2005–56; FAR Case 2011–004; Item IV; Docket 2011–0004, Sequence 1]

RIN 9000–AL88

Federal Acquisition Regulation: Socioeconomic Program Parity

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, the interim rule amending the Federal Acquisition Regulation (FAR) to implement a section of the Small Business Jobs Act of 2010 that clarifies that there is no order of precedence among the small business socioeconomic contracting programs. Accordingly, this final rule amends the FAR to clarify the existence of socioeconomic parity and that contracting officers may exercise discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a) Business Development Program (8(a)), Historically Underutilized Business Zones (HUBZone) Program, Service-Disabled Veteran-Owned Small Business (SDVOSB) Program, or the Women-Owned Small Business (WOSB) Program.

DATES: *Effective Date:* April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Karlos Morgan, Procurement Analyst, at 202–501–2364 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2011–004.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 76 FR 14566 on March 16, 2011, to implement section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240). (A correcting amendment was issued in the **Federal Register** at 76 FR 26220 on May 6, 2011, to reinsert text that was inadvertently omitted in the March 16, 2011, publication.) Section 1347(b) clarifies at section 31(b)(2)(B) of the Small Business Act, 15 U.S.C. 657a(b)(2)(B), that a contract opportunity ''may'' be awarded on the basis of competition restricted to qualified Historically Underutilized Business Zone (HUBZone) small business concerns if the contracting officer has a reasonable expectation that not less than two qualified HUBZone small business concerns will submit offers and the award can be made at a fair market price. The interim rule clarified that there is no order of precedence among the small business socioeconomic contracting programs (*i.e.,* 8(a), HUBZone, SDVOSB, or the WOSB programs) and clarified the contracting officer's authority to use discretion when determining whether an acquisition will be restricted to small businesses participating in those programs. Eighteen respondents submitted comments on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments and the changes made to the rule are provided as follows:

A. Socioeconomic Program Preferences Below the Simplified Acquisition Threshold

Comment: Several respondents submitted comments suggesting that the Councils misinterpreted the intent of section 1347 of the Small Business Jobs Act of 2010 by eliminating the preference for 8(a), HUBZone, SDVOSB, and WOSB programs at or below the simplified acquisition threshold (SAT). These respondents further suggested that FAR 19.203 be amended to include language stating that the small business socioeconomic contracting programs (*i.e.,* 8(a), HUBZone, SDVOSB, and WOSB programs) shall be considered before a general small business set-aside for acquisitions below the SAT.

Response: The interim rule did not change the relationship among the small business socioeconomic contracting programs (*i.e.,* 8(a), HUBZone, SDVOSB and WOSB programs) at or below the SAT. It clarified that the mandatory requirement to reserve each acquisition for supplies or services with an anticipated dollar value at or below the SAT for small businesses does not preclude the contracting officer from making an award under the small business socioeconomic contracting programs. The text provided at FAR 19.203(b) is consistent with the Small Business Administration's (SBA) regulations at 13 CFR 125.2(f)(1), 124.503(j)(1), 125.19(b)(1), 126.607(b)(1), and 127.503(d)(1). FAR 19.203(b) is clarified to reflect that the paragraph applies to acquisitions with an anticipated value above the micro-purchase threshold but not exceeding the SAT.

B. Set-Aside Procedures Over the SAT; Omitted Language (FAR 19.502–2(b))

Comment: A few respondents commented that the reference to set-aside procedures over the SAT, commonly referred to as ''Rule of Two,'' was omitted.

Response: As published in the **Federal Register** at 76 FR 14566 on March 16, 2011, the regulation contained a technical error which accidently deleted the Rule of Two in the promulgated rule. A correcting amendment was issued in the **Federal Register** at 76 FR 26220 on May 6, 2011, reinstating the Rule of Two.

C. Sole Source Dollar Thresholds Vary Among the Socioeconomic Programs

Comment: One respondent noted that socioeconomic parity could not be implemented until all socioeconomic programs had the same sole source dollar threshold.

Response: The sole source dollar thresholds associated with the small business socioeconomic contracting programs (*i.e.,* 8(a), HUBZone, SDVOSB, and WOSB programs) were established by their applicable statutes and the applicable inflationary adjustments that occur to acquisition-related thresholds (see FAR 1.109). These dollar thresholds have no impact on the ability of a contracting officer to exercise discretion when selecting the type of small business socioeconomic contracting program to utilize.

D. Sole Source Authority Under the SDVOSB Program

Comment: A number of respondents suggested that the omission of the SDVOSB sole source reference at FAR 13.003 and the revisions to FAR 19.1406 suggest that the use of a SDVOSB sole source before considering a small business set-aside is discretionary above and below the SAT. It was further suggested that FAR 19.1405 should be revised to state that the contracting officer shall consider SDVOSB set-asides before considering SDVOSB sole source awards.

Response: For acquisitions above the SAT, the contracting officer shall consider a SDVOSB sole source award before considering a general small business set-aside; however,

competitive SDVOSB set-asides should be considered before a SDVOSB sole source. Below the SAT, the contracting officer has the discretion to award a general small business set-aside or to utilize the SDVOSB program. FAR 13.003(b)(2) is revised to remove the reference to SDVOSB concerns and to add a reference to the SDVOSB program (FAR subpart 19.14). Additionally, FAR 19.1406(a) was revised to remove the discretionary ''may'' and add ''shall consider'' to be consistent with FAR 19.203.

E. Discretionary Use of the 8(a) Program

Comment: One respondent commented that revisions to FAR 19.800(e) suggest that the use of the 8(a) program rather than a small business set-aside is discretionary.

Response: For acquisitions above the SAT, the contracting officer shall consider an award under the 8(a) program before considering a general small business set-aside. An acquisition offered under the 8(a) program shall be awarded on the basis of competition when the conditions in FAR 19.805–1 are met. Below the SAT, the contracting officer has the discretion to award a general small business set-aside or to utilize the 8(a) program. FAR 19.800(e) is revised to clarify that the contracting officer shall consider 8(a) set-asides or sole source awards before considering a general small business set-aside.

F. Discretionary Use of the HUBZone Program

Comment: A number of respondents commented that revisions to FAR 19.1306 suggest that the use of HUBZone sole source over a small business set-aside is discretionary. It was further suggested that FAR 19.1305 should be revised to state that the contracting officer shall consider HUBZone set-asides before considering HUBZone sole source awards.

Response: For acquisitions above the SAT, the contracting officer shall consider a HUBZone sole source award before considering a general small business set-aside. However, a competitive HUBZone set-aside should be considered before a HUBZone sole source. Below the SAT, the contracting officer has the discretion to award a general small business set-aside or to utilize the HUBZone program. Additionally, in accordance with FAR 19.1306(a)(4), HUBZone sole source awards are not permitted at or below the simplified acquisition threshold. FAR 13.003(b)(2) is revised to remove the reference to HUBZone small business concerns and to add a reference to FAR 19.1305 and 19.1306(a)(4) for the HUBZone program. Additionally, FAR 19.1306(a) is revised to remove the discretionary ''may'' and add ''shall consider'' to be consistent with FAR 19.203.

G. Definition of Term ''Shall First Consider''

Comment: A few respondents commented that the interim rule requires that contracting officers ''shall first consider'' socioeconomic programs; however, the rule does not define what constitutes consideration.

Response: FAR 19.203(d) was added to include language consistent with 13 CFR 125.2(f)(2)(ii) regarding the minimum elements a contracting officer should examine when choosing a socioeconomic program: The results of market research and progress in fulfilling agency small business goals.

H. Relationship of Small Business Socioeconomic Contracting Programs (8(a), HUBZone, SDVOSB, and WOSB) With Small Businesses

Comment: A number of respondents commented that the parity rule favors the small business socioeconomic contracting programs over general small businesses and that FAR 19.203 could be interpreted to mean a contracting officer is mandated to make an award under one of the small business socioeconomic contracting programs, to the exclusion of other small businesses.

Response: SBA's regulations require acquisitions above the micro-purchase threshold and at or below the SAT to be reserved for small business. This requirement does not preclude the contracting officer from having the discretion to award under one of the small business socioeconomic contracting programs (8(a), HUBZone, SDVOSB, and WOSB). However, above the SAT, the contracting officer shall consider the small business socioeconomic contracting programs before a general small business set-aside.

I. Other Changes

In addition to the changes made in response to public comments, an introductory statement was added at FAR 19.800(e), 19.1305(a), and 19.1405(a) to clarify that the contracting officer must keep in mind the priorities and considerations set forth in FAR 19.203 when planning an acquisition under the 8(a), HUBZone, or SDVOSB programs.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The objective of this final rule is to clarify that there is no order of precedence among the small business socioeconomic programs, and to clarify that the contracting officer's authority to use discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a), HUBZone, SDVOSB, or WOSB programs. Small businesses that participate in Federal Government contracting are the specific group of small entities affected by this final rule.

There were no significant issues raised by the public in response to the Initial Regulatory Flexibility Analysis provided in the interim rule. This final rule adopts the interim rule with minor changes.

Generally, this rule is applicable to all current and potential small businesses that wish to participate in Federal procurement. Firms interested in obtaining Federal contract awards must register in the Central Contractor Registration (CCR) to be eligible for contract award and payment. Examination of the CCR reveals there are approximately 349,992 small business firms; 9,303 HUBZone firms, 9,234 8(a) firms, 18,213 SDVOSB concerns, and 80,477 WOSB concerns currently registered that may be affected by this final rule.

This final rule will impose no new reporting or record keeping requirements on large or small entities. There are no relevant Federal rules which duplicate, overlap, or conflict with this rule.

Promulgation of this final rule may have a positive impact on small businesses as it presents the maximum practicable opportunity for small business concerns qualified under the socioeconomic programs to participate in the performance of contracts, and assist Federal agencies in meeting each of the Government's small business contracting goals.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the

Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 13 and 19

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 13 and 19, which was published in the **Federal Register** at 76 FR 14566, March 16, 2011, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 13 and 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 2. Amend section 13.003 by revising paragraph (b) to read as follows:

13.003 Policy.

* * * * *

(b)(1) Acquisitions of supplies or services that have an anticipated dollar value exceeding $3,000 ($15,000 for acquisitions as described in 13.201(g)(1)) but not exceeding $150,000 ($300,000 for acquisitions described in paragraph (1) of the simplified acquisition threshold definition at 2.101) are reserved exclusively for small business concerns and shall be set aside (see 19.000, 19.203, and subpart 19.5).

(2) The contracting officer may make an award to a small business concern under the—

(i) 8(a) Program (see subpart 19.8);

(ii) Historically Underutilized Business Zone (HUBZone) Program (but see 19.1305 and 19.1306(a)(4));

(iii) Service-Disabled Veteran-Owned Small Business (SDVOSB) Program (see subpart 19.14); or

(iv) Women-Owned Small Business (WOSB) Program (see subpart 19.15).

(3) The following contracting officer's decisions for acquisitions at or below the simplified acquisition threshold are not subject to review under subpart 19.4:

(i) A decision not to make an award under the 8(a) Program.

(ii) A decision not to set aside an acquisition for HUBZone small business concerns, service-disabled veteran-owned small business concerns, or EDWOSB concerns and WOSB concerns eligible under the WOSB Program.

(4) Each written solicitation under a set-aside shall contain the appropriate provisions prescribed by part 19. If the solicitation is oral, however, information substantially identical to that in the provision shall be given to potential quoters.

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 3. Amend section 19.203 by revising paragraphs (b) and (c); redesignating paragraph (d) as paragraph (e); and adding a new paragraph (d) to read as follows:

19.203 Relationship among small business programs.

* * * * *

(b) *At or below the simplified acquisition threshold.* For acquisitions of supplies or services that have an anticipated dollar value exceeding $3,000 ($15,000 for acquisitions as described in 13.201(g)(1)), but not exceeding $150,000 ($300,000 for acquisitions described in paragraph (1) of the simplified acquisition threshold definition at 2.101), the requirement at 19.502–2(a) to exclusively reserve acquisitions for small business concerns does not preclude the contracting officer from awarding a contract to a small business under the 8(a) Program, HUBZone Program, SDVOSB Program, or WOSB Program.

(c) *Above the simplified acquisition threshold.* For acquisitions of supplies or services that have an anticipated dollar value exceeding the simplified acquisition threshold definition at 2.101, the contracting officer shall first consider an acquisition for the small business socioeconomic contracting programs (*i.e.,* 8(a), HUBZone, SDVOSB, or WOSB programs) before considering a small business set-aside (see 19.502–2(b)). However, if a requirement has been accepted by the SBA under the 8(a) Program, it must remain in the 8(a) Program unless the SBA agrees to its release in accordance with 13 CFR parts 124, 125, and 126.

(d) In determining which socioeconomic program to use for an acquisition, the contracting officer should consider, at a minimum—

(1) Results of market research that was done to determine if there are socioeconomic firms capable of satisfying the agency's requirement; and

(2) Agency progress in fulfilling its small business goals.

* * * * *

■ 4. Amend section 19.800 by revising paragraph (e) to read as follows:

19.800 General.

* * * * *

(e) The contracting officer shall comply with 19.203 before deciding to offer an acquisition to a small business concern under the 8(a) Program. For acquisitions above the simplified acquisition threshold, the contracting officer shall consider 8(a) set-asides or sole source awards before considering small business set-asides.

* * * * *

■ 5. Amend section 19.1305 by revising paragraph (a) to read as follows:

19.1305 HUBZone set-aside procedures.

(a) The contracting officer—

(1) Shall comply with 19.203 before deciding to set aside an acquisition under the HUBZone Program;

(2) May set aside acquisitions exceeding the micro-purchase threshold for competition restricted to HUBZone small business concerns when the requirements of paragraph (b) of this section can be satisfied; and

(3) Shall consider HUBZone set-asides before considering HUBZone sole source awards (see 19.1306) or small business set-asides (see subpart 19.5).

* * * * *

■ 6. Amend section 19.1306 by revising the introductory text of paragraph (a) to read as follows:

19.1306 HUBZone sole source awards.

(a) A contracting officer shall consider a contract award to a HUBZone small business concern on a sole source basis (see 6.302–5(b)(5)) before considering a small business set-aside (see 19.203 and subpart 19.5), provided none of the exclusions at 19.1304 apply; and—

* * * * *

■ 7. Amend section 19.1405 by revising paragraph (a) to read as follows:

19.1405 Service-disabled veteran-owned small business set-aside procedures.

(a) The contracting officer—

(1) Shall comply with 19.203 before deciding to set aside an acquisition under the SDVOSB Program;

(2) May set-aside acquisitions exceeding the micro-purchase threshold for competition restricted to SDVOSB concerns when the requirements of paragraph (b) of this section can be satisfied; and

(3) Shall consider SDVOSB set-asides before considering SDVOSB sole source awards (see 19.1406) or small business set-asides (see subpart 19.5).

* * * * *

■ 8. Amend section 19.1406 by revising the introductory text of paragraph (a) to read as follows:

19.1406 Sole source awards to service-disabled veteran-owned small business concerns.

(a) A contracting officer shall consider a contract award to a SDVOSB concern on a sole source basis (see 6.302–5(b)(6)), before considering small business set-asides (see 19.203 and subpart 19.5) provided none of the exclusions of 19.1404 apply and—

* * * * *

[FR Doc. 2012–4488 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005–56; FAR Case 2012–002; Item V; Docket 2012–0002, Sequence 1]

RIN 9000–AM17

Federal Acquisition Regulation: Trade Agreements Thresholds

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to incorporate adjusted thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2012–002.

SUPPLEMENTARY INFORMATION:

I. Background

Every two years, the trade agreements thresholds are adjusted according to a pre-determined formula set forth in the agreements. The United States Trade Representative has specified the following new thresholds in the **Federal Register** (see 76 FR 76808, published on December 8, 2011):

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	$202,000	$202,000	$7,777,000
FTAs:			
Australia FTA	77,494	77,494	7,777,000
Bahrain FTA	202,000	202,000	10,074,262
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	77,494	77,494	7,777,000
Chile FTA	77,494	77,494	7,777,000
Morocco FTA	202,000	202,000	7,777,000
NAFTA:			
—Canada	25,000	77,494	10,074,262
—Mexico	77,494	77,494	10,074,262
Oman FTA	202,000	202,000	10,074,262
Peru FTA	202,000	202,000	7,777,000
Singapore FTA	77,494	77,494	7,777,000
Israeli Trade Act	50,000		

II. Discussion and Analysis

This final rule implements the new thresholds in FAR subpart 25.4, Trade Agreements, and other sections in the FAR that include trade agreements thresholds (*i.e.,* 22.1503, 25.202, 25.603, 25.1101, and 25.1102).

In addition, changes are required to FAR clause 52.204–8, Annual Representations and Certifications, and FAR clause 52.222–19, Child Labor-Cooperation with Authorities and Remedies. Conforming changes are also required to the clause dates in FAR clause 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, and FAR clause 52.213–4, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

■ 2. Amend section 22.1503 by removing from paragraph (b)(3) ''$70,079'' and adding ''$77,494'' in its place, and by removing from paragraph (b)(4) ''$203,000'' and adding ''$202,000'' in its place.

PART 25—FOREIGN ACQUISITION

25.202 [Amended]

■ 3. Amend section 25.202 by removing from paragraph (c) ''$7,804,000'' and adding ''$7,777,000'' in its place.

■ 4. Amend section 25.402 by revising the table in paragraph (b) to read as follows:

25.402 General.

* * * * *

(b) * * *

Trade agreement	Supply contract (equal to or exceeding)	Service contract (equal to or exceeding)	Construction contract (equal to or exceeding)
WTO GPA	$202,000	$202,000	$7,777,000
FTAs:			
Australia FTA	77,494	77,494	7,777,000
Bahrain FTA	202,000	202,000	10,074,262
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	77,494	77,494	7,777,000
Chile FTA	77,494	77,494	7,777,000
Morocco FTA	202,000	202,000	7,777,000
NAFTA:.			
—Canada	25,000	77,494	10,074,262
—Mexico	77,494	77,494	10,074,262
Oman FTA	202,000	202,000	10,074,262
Peru FTA	202,000	202,000	7,777,000
Singapore FTA	77,494	77,494	7,777,000
Israeli Trade Act	50,000		

25.603 [Amended]

■ 5. Amend section 25.603 by removing from paragraph (c)(1) ''$7,804,000'' and adding ''$7,777,000'' in its place.

25.1101 [Amended]

■ 6. Amend section 25.1101 by—

■ a. Removing from paragraph (b)(1)(i)(A) ''$203,000'' and adding ''$202,000'' in its place;

■ b. Removing from paragraphs (b)(1)(iii) and (b)(2)(iii) ''$70,079'' and adding ''$77,494'' in its place; and

■ c. Removing from paragraphs (c)(1) and (d) ''$203,000'' and adding ''202,000'' in its place.

25.1102 [Amended]

■ 7. Amend section 25.1102 by—

■ a. Removing from the introductory text of paragraph (a) ''$7,804,000'' and adding ''$7,777,000'' in its place;

■ b. Removing from the introductory text of paragraph (c) ''$7,804,000'' and adding ''$7,777,000'' in its place;

■ c. Removing from paragraph (c)(3) ''$7,804,000'' and ''$9,110,318'' and adding ''$7,777,000'' and ''$10,074,262'' in their place, respectively; and

■ d. Removing from paragraph (d)(3) ''$7,804,000'' and ''$9,110,318'' and adding ''$7,777,000'' and ''$10,074,262'' in their place, respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Amend section 52.204–8 by revising the date of the provision as set forth below, and removing from paragraph (c)(1)(xvii)(C) ''$67,826'' and adding ''$77,494'' in its place.

52.204–8 Annual Representations and Certifications.

* * * * *

ANNUAL REPRESENTATIONS AND CERTIFICATIONS (MAR 2012)

* * * * *

■ 9. Amend section 52.212–5 by revising the date of the clause and paragraph (b)(27) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL (MAR 2012)

* * * * *

(b) * * *

__(27) 52.222–19, Child Labor-Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).

* * * * *

■ 10. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) (MAR 2012)

* * * * *

(b) * * *

(1) * * *

(i) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

* * * * *

■ 11. Amend section 52.222–19 by revising the date of the clause; removing from paragraph (a)(3) ''$70,079'' and adding ''$77,494'' in its place; and removing from paragraph (a)(4) ''$203,000'' and adding ''$202,000'' in

its place. The revised text reads as follows:

52.222–19 Child Labor—Cooperation with Authorities and Remedies.

* * * * *

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES (MAR 2012)

* * * * *

[FR Doc. 2012–4492 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005–56; FAR Case 2011–030; Item VI; Docket 2011–0030, Sequence 1]

RIN 9000–AM16

Federal Acquisition Regulation; New Designated Country (Armenia) and Other Trade Agreements Updates

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Armenia as a designated country, due to the accession of Armenia to membership in the World Trade Organization Government Procurement Agreement. The rule also updates the FAR lists of countries that are party to the Agreement on Trade in Civil Aircraft.

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2011–030.

SUPPLEMENTARY INFORMATION:

I. Background

On September 15, 2011, Armenia became a party to the World Trade Organization Government Procurement Agreement (WTO GPA). The Trade Agreements Act (19 U.S.C. 2501 *et seq.*) provides the authority for the President to waive the Buy American Act and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the United States (such as the WTO GPA). The President has delegated this waiver authority to the U.S. Trade Representative (see FAR 25.402).

On September 22, 2011, because Armenia became a party to the WTO GPA and because the U.S. Trade Representative has determined that Armenia will provide appropriate reciprocal competitive Government procurement opportunities to United States products and services and suppliers of such products and services, the U.S. Trade Representative published a notice in the **Federal Register** (76 FR 58856) waiving the Buy American Act and other discriminatory provisions for eligible products from Armenia.

In addition, the Office of the U.S. Trade Representative has provided an updated list of countries that are party to the Agreement on Trade in Civil Aircraft. The U.S. Trade Representative has waived the Buy American Act for civil aircraft and related articles from countries that are parties to the Agreement on Trade on Civil Aircraft.

II. Discussion and Analysis

FAR 25.003 defines WTO GPA countries by listing the parties to the WTO GPA, and defines ''designated country'' as a WTO GPA country, a Free Trade Agreement country, a least designated country, or a Caribbean Basin country (including the lists of countries in each category).

Because Armenia is now a WTO GPA country and therefore also a designated country, as determined by the U.S. Trade Representative, this final rule adds Armenia to the lists of WTO GPA countries and designated countries at FAR 22.1503, 25.003, 52.222–19, 52.225–5, 52.225–11, and 52.225–23.

This final rule also updates the FAR lists of countries that are party to the Agreement on Trade in Civil Aircraft at FAR 25.407 and 52.225–7, Waiver of Buy American Act for Civil Aircraft and Related Articles.

Conforming changes have also been made to the associated clause dates for the revised clauses in the lists at FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, and FAR 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it recognizes actions taken by the United States Trade Representative that do not have a significant effect on contractors or offerors.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 and does not require publication for public comment.

VI. Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) unless the collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. The Paperwork

Reduction Act does apply, because the final rule affects the certification and information collection requirement in the provision at FAR 52.225–11, Buy American Act—Construction Materials Under Trade Agreements, currently approved under OMB clearance 9000–0141, Buy American Act—Construction. The FAR Council has determined that the impact on the approved paperwork burden is negligible. Comments regarding the burden estimates or any other aspect of this collection of information, including suggestions for reducing the burden, in response to approved OMB clearance 9000–0141, should be sent, not later than May 1, 2012 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), Attn: Hada Flowers, 1275 First Street, NE., 7th Floor, Washington, DC 20417.

Requesters may obtain a copy of the supporting statement for the burden approved under OMB clearance 9000–0141 from the General Services Administration, Regulatory Secretariat (MVCB), Attn: Hada Flowers, 1275 First Street, NE., 7th Floor, Washington, DC 20417. Please cite OMB Control Number 9000–0141, Buy American Act—Construction, in all correspondence.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

■ 2. Amend section 22.1503 by removing from paragraph (b)(4) the word ''Aruba,'' and adding the words ''Armenia, Aruba,'' in its place.

PART 25—FOREIGN ACQUISITION

25.003 [Amended]

■ 3. Amend section 25.003 by removing from paragraph (1) of the definition ''Designated country'', and the definition ''World Trade Organization Government Procurement Agreement (WTO GPA) country'' the word ''Aruba,'' and adding the words ''Armenia, Aruba,'' in their place.

■ 4. Revise section 25.407 to read as follows:

25.407 Agreement on Trade in Civil Aircraft.

Under the authority of Section 303 of the Trade Agreements Act, the U.S. Trade Representative has waived the Buy American Act for civil aircraft and related articles that meet the substantial transformation test of the Trade Agreements Act, from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Albania, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Macao China, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan (Chinese Taipei), and the United Kingdom.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.212–5 by revising the date of the clause, and paragraphs (b)(27) and (b)(41) to read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS APR 2012

* * * * *

(b) * * *

__ (27) 52.222–19, Child Labor—Cooperation with Authorities and Remedies APR 2012 (E.O. 13126).

* * * * *

__ (41) 52.225–5, Trade Agreements APR 2012 (19 U.S.C. 2501, *et seq.,* 19 U.S.C. 3301 note).

* * * * *

■ 6. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(i) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS) APR 2012

* * * * *

(b) * * *

(1) * * *

(i) 52.222–19, Child Labor—Cooperation with Authorities and Remedies APR 2012 (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

* * * * *

■ 7. Amend section 52.222–19 by revising the date of the clause to read as set forth below; and removing from paragraph (a)(4) the word ''Aruba,'' and adding the words ''Armenia, Aruba,'' in its place.

52.222–19 Child Labor—Cooperation With Authorities and Remedies.

* * * * *

CHILD LABOR—COOPERATION WITH AUTHORITIES AND REMEDIES APR 2012

* * * * *

■ 8. Amend section 52.225–5 by revising the date of the clause to read as set forth below; and in paragraph (a) removing from paragraph (1) of the definition ''Designated country'' the word ''Aruba,'' and adding the words ''Armenia, Aruba,'' in its place.

52.225–5 Trade Agreements.

* * * * *

TRADE AGREEMENTS APR 2012

* * * * *

■ 9. Amend section 52.225–7 by revising the date of the provision, and the second sentence of paragraph (b) to read as follows:

52.225–7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

* * * * *

WAIVER OF BUY AMERICAN ACT FOR CIVIL AIRCRAFT AND RELATED ARTICLES APR 2012

* * * * *

(b) * * * Those countries are Albania, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Macao China, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan (Chinese Taipei), and the United Kingdom.

* * * * *

■ 10. Amend section 52.225–11 by revising the date of the clause to read as set forth below; and in paragraph (a) removing from paragraph (1) of the definition ''Designated country'' the

word ''Aruba,'' and adding the words ''Armenia, Aruba,'' in its place.

52.225–11 Buy American Act—Construction Materials Under Trade Agreements.

* * * * *

BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS APR 2012

* * * * *

■ 11. Amend section 52.225–23 by revising the date of the clause to read as set forth below; and in paragraph (a) removing from paragraph (1) of the definition ''Designated country'' and paragraph (1) of the definition ''Recovery Act designated country'' the word ''(Aruba,'' and adding the words ''(Armenia, Aruba,'' in its place.

52.225–23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

* * * * *

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS—BUY AMERICAN ACT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS APR 2012

* * * * *

[FR Doc. 2012–4495 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 31, 32, 45, 49, 51, 52, and 53

[FAC 2005–56; FAR Case 2010–009; Item VII; Docket 2010–0009, Sequence 1]

RIN 9000–AL95

Federal Acquisition Regulation; Government Property

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to clarify reporting, reutilization, and disposal of Government property.

DATES: *Effective Date:* April 2, 2012.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–56, FAR Case 2010–009.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 76 FR 18497 on April 4, 2011. Eight respondents submitted comments on the proposed rule. The comments received were grouped by topic area.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

1. A definition of ''surplus property'' is added at FAR 2.101 to apply throughout the FAR.

2. Terminology used is updated and used consistently throughout the FAR, *e.g.,* ''loss of Government property'' is defined at FAR 45.101, and ''loss'' is used consistently in lieu of ''loss, damage, destruction, or theft.''

3. Clarified, and distinguished among, the responsibilities and authorities of the contracting officer, property administrator, plant clearance officer, and contractor.

4. Reorganized and clarified procedures and responsibilities for Government property disposal (see FAR subpart 45.6).

5. Reorganized, clarified, and updated the Government property clause at FAR 52.245–1 to conform with revisions to FAR part 45.

B. Government Responsibilities

Comments: A respondent recommended a number of revisions to the Government responsibilities, primarily those in FAR subpart 45.6, Reporting, Reutilization, and Disposal. The respondent recommended revising FAR 45.606–1(a) to require that the property administrator work in coordination with the plant clearance officer to ensure that contractor scrap disposal processes are effective and properly documented. Another recommendation was to revert to the current regulation's use of ''should'' in lieu of ''may'' at FAR 45.602–1(c)(1) in order to ensure the Government's agreement before Government property is removed from a contractor's inventory schedule. The respondent recommended modifying FAR 45.606–1(b) to require that any deviation from the contractor's standard property plan and processes be identified as early as possible in the procurement process.

Response: The first two recommendations are adopted in this final rule. The final recommendation is not adopted because the Property Administrator can make that determination at any time.

Comments: The same respondent recommended a number of other revisions to the Government responsibilities, also primarily in FAR subpart 45.6, Reporting, Reutilization, and Disposal. The respondent proposed to revise FAR 45.600, Scope of subpart (which was not included in the proposed rule) to allow for either the contracting officer or the plant clearance officer to perform plant clearance officer duties. The respondent recommended removing the proposed rule's requirement, at FAR 45.603(b), for the plant clearance officer to obtain approval at one level higher than the contracting officer before allowing the abandonment of sensitive property that does not require demilitarization. The respondent requested the addition of more examples of items considered to be incidental to the place of performance (see FAR 45.000).

Response: The above recommendations are not incorporated into the final rule because (1) contracting officers generally rely on the Government property expertise of plant clearance officers, (2) additional review and approval requirements can provide a broader perspective, and (3) too often, lists of examples are treated inappropriately as exhaustive lists.

C. Contractor Property Management Systems

Comments: Two respondents recommended revisions to FAR subpart 45.1, General. One recommendation was to revise FAR 45.105(b) to prevent the Government from notifying a contractor of deficiencies in its property management system unless the deficiencies were ''material.'' The other recommendation was to modify FAR 45.104(b) to add the following: ''When determining noncompliance, FAR part 1 concepts apply, *e.g.,* risk management, materiality, best value, and benefits of changes must justify their cost''.

Response: FAR part 1 is always applicable to all parts of the FAR. There is no need to repeat the statement in FAR part 45. ''Materiality'' is not defined in FAR part 2. If the Government determines that

deficiencies in a contractor's property management system are significant enough to warrant a correction letter, then the contractor should treat those deficiencies as material.

Comments: A number of respondents proposed changes to the clause at FAR 52.245–1 that were associated with contractors' property management systems. These included the following:

• FAR 52.245–1(b)(1): Add ''internal controls,'' ''efficient,'' and ''a new;'' and delete ''except where inconsistent with law or regulation.''

• FAR 52.245–1(b)(4): Change ''property'' to ''asset.''

• FAR 52.245–1(f)(1)(iii)(A): Substitute ''as appropriate to the circumstances'' in place of ''auditable.''

• FAR 52.245–1(f)(1)(iii)(A)(*1*): Do not use ''description;'' instead, retain ''manufacturer and model number (if applicable) for Equipment, ST, and STE.''

• FAR 52.245–1(f)(1)(v)(A): Change ''assets'' to ''items'' and revise to read ''shall have a process to manage Government property in the possession of subcontractors including identification and reporting of reportable items, as required in the contract as Government furnished or contractor acquired items.''

• FAR 52.245–1(f)(1)(vii)(C)(*1*): Clarify what is included in ''consumed'' and that the property administrator is the official determining the reasonableness of adjustments.

• FAR 52.245–1(g): Change ''analysis'' to ''audit.''

• FAR 52.245–1(j): Delete, at FAR 52.245–1(j)(1)(i), ''in consultation with the Property Administrator,'' and retain existing language at (j)(2). Add ''in accordance with agency procedures if included in the contract.''

• FAR 52.245–1(j): Delete (j)(3)(i)(B) and replace it with (j)(3)(i)(C). Revise the time allotted for contractor submission from ''30 days'' to ''60 days or such other time frame agreed to by the PLCO.''

• FAR 52.245–1: Add a dollar threshold for the contractor's reporting and tracking, *i.e.,* ''* * * property in excess of $5,000 or in accordance with risk levels in voluntary consensus standards or industry leading practices.'' The respondent suggested allowing contractors to defer any reporting of certain low-risk or low-value items until contract termination.

Response:

• FAR 52.245–1(b)(1): Two of the recommended additions to FAR 52.245–1(b)(1) are incorporated into the final rule because they better explain the Government's requirements for the contractor's property management system. However, ''a new'' was not added because of the associated element related to ''time.'' The phrase ''except where inconsistent with law or regulation'' is not deleted because contractors are never authorized to employ commercial practices, voluntary consensus standards, or industry-leading practices if the former do not comply with law or regulation.

• FAR 52.245–1(b)(4): The term ''property'' is retained to maintain consistency in terminology.

• FAR 52.245–1(f)(1)(iii)(A) and (A)(*1*): The Councils did not revise ''auditable'' to ''as appropriate for the circumstances'' because the proposed change is too vague and does not provide an understandable or consistent standard. The final rule does not revert back to the use of ''manufacturer and model number * * *'' because this is a reasonable number of data elements at the Federal level.

• FAR 52.245–1(f)(1)(v)(A): Applying the same principle as is used at the beginning of this response results in revising ''assets'' to ''items'' at FAR 52.245–1(f)(1)(v)(A). The language regarding the management of Government property in subcontractors' possession is not added to paragraph (f)(1)(v)(A) because it would be redundant to the requirement already at FAR 52.245–1(f)(1)(v)(B).

• FAR 52.245–1(f)(1)(vii)(C)(*1*): It is not necessary to revise FAR 52.245–1(f)(1)(vii)(C)(*1*) because the text already clearly designates the property administrator as the deciding official, and the use of the term ''consumed'' is clear in the context of (C)(*1*) (''Such property is consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator'').

• FAR 52.245–1(g): ''Analysis,'' not ''audit,'' is the proper term.

• FAR 52.245–1(j): Paragraph (j) of the clause addresses contractor inventory disposal. The lead-in to paragraph (j) makes all contractor inventory disposal decisions subject to the authorization of the plant clearance officer; therefore, it is unnecessary to restate the qualifier in subordinate paragraphs of paragraph (j). Paragraph (j)(2) of the clause addresses inventory disposal schedules. The existing text had elicited many questions over time, so a revision was determined necessary to provide additional clarity; reverting to the current paragraph (j)(2) would be a step backward.

The authority to revise a contractor's use and receipt system for Government material (see FAR 52.245–1(f)(1)(iii)(B)) ''in accordance with agency procedures * * *'' is not included in the final rule because it would result in inconsistencies in treatment and problems when more than one Government agency had authorized the use of Government property in a single contractor facility.

• FAR 52.245–1(j): Effectively, the request to delete 52.245–1(j)(3)(i)(B) and replace it with (C) of the same paragraph would eliminate a 60-day period for submission of the contractor's inventory disposal schedule and replace it with a 120-day submission schedule. Allowing an extra two months for the contractor's submission is unnecessary if the contractor has an acceptable property management system. For the same reasons, the extension of the submission period from 30 days to 60 days is not made.

• FAR 52.245–1: The final recommendation would have established a dollar threshold and allowed contractors to defer any reporting of low-dollar items during contract performance. However, the Government property management principles have departed from the use of dollar thresholds and recognized that some low-dollar items may be sensitive and require closer management.

D. Disposal

Comment: One respondent recommended adding, at FAR 45.201, a requirement that the solicitation indicate how the contractor's property management system plan would be utilized for disposal.

Response: FAR 45.201(c)(4) requires that the solicitation include a description of the offeror's property management system, plan, and practices and standards used by the offeror in managing Government property. In addition, the clause at 52.245–1, Government Property, which is required to be included in solicitations, thoroughly addresses the Government's uses of contractors' property management systems.

Comment: One respondent suggested that any additional instructions to offerors on management of Government property, currently allowed only in the statement of work, could also be included in a special provision of the contract.

Response: The allowance for including this information in a special provision is added at FAR 45.201(d).

Comment: One respondent suggested that it was not clear at FAR 52.245–1(j)(1)(i) that, in disposing of certain property, the contractor is limited to transferring the property to another

Government contract, as opposed to any contract.

Response: The referenced section of the clause is revised to add ''Government'' in front of ''contract'' in two places.

Comment: One respondent suggested adding ''with contractor's consent'' at FAR 45.603(a)(2).

Response: The proposed change would require the Government to obtain the contractor's consent prior to abandoning non-sensitive property at the contractor's or subcontractor's premises. In order to minimize administrative burden, contractor consent is required only prior to abandoning sensitive property.

Comment: One respondent suggested revising FAR 45.604–1 to differentiate between formal and informal sales and ''scrap'' sales.

Response: The recommended change would require the creation of additional definitions. Any such distinctions are more appropriately located in the contractor's property management procedures.

Comment: One respondent suggested revising FAR 45.606–1(c) to ensure that the disposition of scrap items is addressed in the contractor's standard scrap processes and procedures.

Response: The decision on whether to abandon scrap (the subject of FAR 45.606–1) is a Government decision; it is not a subject to be included in the contractor's scrap procedures.

E. Exceptions and applicability

Comment: One respondent suggested that FAR 45.102(b) be clarified to demonstrate when cost-reimbursement contracts are used.

Response: There is no need to revise FAR 45.102, Policy, because that section addresses the circumstances under which it is appropriate to provide property to contractors. The limitations and requirements for contract types, *e.g.,* cost-reimbursement contracts, are found in FAR part 16 and are not related to whether Government property is provided.

Comment: The proposed rule included a new paragraph FAR 45.102(e) that would prohibit the installation, with certain exceptions, of Government property in such fashion as to become nonseverable, ''unless the head of the contracting activity determines that such installation or construction is necessary and in the Government's interest.'' One respondent recommended deleting the exception and creating a flat prohibition.

Response: Because there are instances when nonseverable installation of Government property may be appropriate, a flat prohibition is not adopted. The bar to nonseverable installation of Government property is set sufficiently high, requiring the head of the contracting activity to make a determination to waive the requirement, that it is unlikely to become a common occurrence.

F. Crediting Monies Received

Comment: One respondent suggested adding a paragraph on crediting disposal proceeds to the clause at FAR 52.245–1, as follows: ''*Disposal proceeds.* If the contractor's practice is to comingle scrap from a variety of contract sources and ownership, the Contractor may credit net scrap proceeds to a contractor overhead account.''

Response: FAR 45.604–3 (formerly 45.604–4), Proceeds from sales of surplus property, requires that such monies be credited to the U.S. Treasury as miscellaneous receipts. Deposit of sales proceeds is already covered under FAR 45.604–3. No further regulatory amplification is needed.

Comment: Three respondents suggested various ways of crediting financial restitution to the contract, not back to the Treasury, as is required at FAR 45.104(e).

Response: With few statutory exceptions, monies received for the use of the United States, from whatever source, must be paid into the U.S. Treasury without deduction. The statute is the authoritative source.

G. Definitions

Comment: One respondent suggested revising the definition of ''production scrap,'' changing the term to ''material scrap,'' and including scrap from non-production activities in the definition at FAR 45.101 and 52.245–1(a).

Response: The term ''production scrap'' is the recognized and consistent term used throughout the FAR, but the additional text is added to clarify what is included in the term.

Comment: Two respondents suggested changing the term ''unit acquisition cost'' to ''item acquisition cost'' at FAR 45.101 and 52.245–1(a). One of these respondents also suggested adding ''fair value at the time of loss'' to the definition.

Response: The Councils prefer the term ''unit acquisition cost'' versus ''item acquisition cost.'' The unit acquisition cost, provided by the Government, is the actual cost at the time of purchase and is the proper measure of value.

Comments: Four recommendations were received for revising the definition of ''loss of Government property.'' Two of these suggested adding ''in the possession of a contractor under terms of a contract'' to the definition. Another recommended adding ''material'' prior to ''harm'' to denote that damage should not include ordinary repairs due to normal wear and tear. A third recommendation was to add ''occurrences such as'' to the definition in order to make it consistent with Defense Federal Acquisition Regulation Supplement 252.245–7002.

Response: The first change is not made as it would be superfluous; *i.e.,* the entire FAR part 45 refers to Government Property in contractor's possession. ''Material'' is not added to the definition because the definition already excludes normal wear and tear. The phrase ''occurrences such as'' is added to the definition for additional clarity.

Comment: One respondent suggested adding a definition for ''repair, maintenance, and overhaul scrap'' at FAR 45.606–1.

Response: The essence of the proposed definition is included in the authority given to the contracting officer at FAR 45.603. There is no need to include a separate definition.

H. Contractor Use of Government Supply Sources

Comment: One respondent recommended revising the second sentence of the clause at FAR 52.251–1, Government Supply Sources, to state that title to such purchases vested in the Government ''except when the transaction is based upon a cash sale to the Contractor.''

Response: There is no need to make distinctions in title vesting in this clause as long as the clause contains the phrase ''unless otherwise specified in the contract.'' Every contract must contain a payment clause, and it is the payment clause that determines when, and with whom, title vests.

I. Editorial Comments

The editorial comments are grouped by the FAR section they address.

Comments on FAR 45.104(d): This paragraph addresses contractor liability and the appropriate form of restitution once a loss of property has been established. One respondent recommended changing ''lost property'' to ''property loss,'' and another respondent suggested adding ''fair value'' and replacing ''restitution'' with ''compensation.''

Response: The final rule uses ''property loss'' in lieu of ''lost property.'' The other recommendations are not incorporated in the final rule because (1) substituting ''compensation''

for ''restitution'' does not add clarity, and (2) the use of ''fair value'' would introduce a new concept of valuation.

Comments on FAR 45.105: Three comments were received on this section. One recommended substituting ''liability'' for ''and liability;'' another suggested deleting either ''and'' or ''or'' in paragraph (b)(1); and a third recommended adding ''under the Government property clause'' in paragraph (d).

Response: These edits are not incorporated in the final rule because they do not further clarify the coverage.

Comments on FAR 45.201: One respondent suggested deleting either ''and'' or ''or'' at FAR 45.201(a)(1). Another respondent suggested adding the contractor's property management ''plan'' to the list at FAR 45.201(c)(4), because the plan depicts the standard way a contractor does business.

Response: The final rule incorporates the recommended revisions because they increase clarity.

Comment on FAR 45.202: A respondent suggested that the rules for evaluating offers when one offeror possessed Government property, and other offerors did not, would be improved by adding the phrase ''using the FAR 52.245–9 Rental Calculation process'' in this section.

Response: FAR 45.202(a) is revised to read ''a rental equivalent evaluation factor as specified in FAR 52.245–9.''

Comment on FAR 45.602: One respondent suggested changing ''may entitle'' to ''entitles'' at FAR 45.602–1(b)(4).

Response: This change, had it been incorporated in the final rule, would have been a policy change that effectively gave a contractor an absolute entitlement to an equitable adjustment if the Government did not provide timely disposition instructions. Contracting officers require discretion and flexibility in determining whether an equitable adjustment is warranted.

Comments on FAR 45.603: One respondent recommended relocating FAR 45.603(c) to 45.603(a)(1). A respondent recommended inserting ''recipients'' at FAR 45.603(c), and another respondent suggested adding ''as applicable'' to FAR 45.603(b).

Response: None of the recommendations is incorporated into the final rule. The Councils elected not to relocate FAR 45.603(c) because it would distort the proper sequence of events. ''Recipient's'' was not added to paragraph (c) because the Government will not bear any of the costs incident to such donations, regardless of who incurred them. ''As applicable'' is not added to paragraph (b) because review at a level higher than the plant clearance officer is required in cases of other contractor inventory.

Comment on FAR 45.606: One respondent suggested inserting ''in coordination with the plant clearance officer'' at FAR 45.606(a).

Response: The revision is incorporated in the final rule.

Comments on FAR 52.245–1(b): Several editorial revisions were recommended for this paragraph. One respondent suggested revising FAR 52.245–1(b)(4) by adding ''surveillance, self-assessments, or'' and deleting ''and'' in ''and/or.''

Response: The final rule incorporates these edits, such that the contractor must perform periodic internal reviews, surveillances, self assessments, or audits.

Comments on FAR 52.245–1(f)(1)(vii): Five editorial recommendations were proposed for this paragraph of the Government Property clause, which addresses ''Relief of stewardship responsibilities.'' One recommendation was to revise 52.245–1(f)(1)(vii)(A) from ''necessary'' corrective actions to ''any necessary,'' and another was to delete ''all'' at paragraph 52.245–1(f)(1)(vii)(B)(*10*). Other recommendations were to amend paragraph 52.245–1(f)(1)(vii)(B)(*8*) to add ''and preventive actions,'' change ''reimbursement'' to ''compensation,'' insert ''export controlled'' and ''and authorities'' and delete ''if so,'' and amend paragraph 52.245–1(f)(1)(vii)(C)(*3*) so as not to unnecessarily limit the contractor's discretion to dispose of property in accordance with other paragraphs of the Government Property clause.

Response: The first two recommendations are not incorporated in the final rule because they would have introduced ambiguity and unintentionally introduced a lower standard. The next two recommendations starting at ''other recommendations'' are incorporated in the final rule. The last recommendation is not incorporated in the final rule because the proposed language does not limit the contractor's discretion.

Comments on FAR 52.245–1(h): One respondent suggested deleting ''and/or'' at paragraph (h)(1). A respondent suggested that paragraph (h)(3) should be revised to be more consistent with the policy intent. Another respondent recommended changing ''directed'' to ''determined'' at paragraph (h)(4).

Response: Paragraph (h)(1) is not changed because the intent is clear—either one or the other or both is acceptable. Paragraph (h)(3) is not revised because it is consistent with the policy. Paragraph (h)(4) was revised to adopt ''determined'' as a more consistent use of terminology.

Comment on FAR 52.245–1(k): One respondent recommended adding ''non-sensitive.''

Response: The applicability of this paragraph is clear without the addition.

J. Out of Scope

Comment: One respondent suggested that small businesses should use Systems Applications Products to track scrap material as large businesses do.

Response: The Government does not recommend any particular commercial product.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. The FRFA is summarized as follows:

DoD, GSA, and NASA are revising FAR parts 45 and 52. The focus of this effort is to clarify FAR subpart 45.6, Reporting, Reutilization, and Disposal, and the contractor requirements under the clause at FAR 52.245–1, Government Property.

The revisions include technical corrections to align the FAR with the requirements of the Federal Management Regulation. Also included is new and expanded policy language on the disposal of scrap, new language for contracting officers and contract specialists on depositing of monies received from contractors for property that is lost, damaged, destroyed, or stolen, and new language prohibiting personal property from being installed or constructed on contractor-owned real property in such fashion as to become nonseverable.

DoD, GSA, and NASA published a proposed rule at 76 FR 18497 on April 4, 2011. The rule does not place new requirements on contractors; rather, it clarifies existing policies and procedures and should simplify compliance for contractors and enable consistent Government oversight.

No comments were received on the initial regulatory flexibility analysis in the proposed rule.

Approximately 5,000 contractors have Federal property in their possession. DoD has approximately 3,000 contractors with potential contract-property reporting requirements. Approximately 60 percent of all DoD contractors are small businesses. Given that property in the possession of contractors is over-whelmingly DoD property, it is estimated the DoD ratio of small businesses to total businesses having such property is a reasonable approximation for all Government contractors. Therefore, approximately 3,000 small businesses have Government property in their possession.

FAR Case 2004–025 streamlined the requirements concerning property management in FAR part 45. FAR Case 2008–011 continued that philosophy. This final rule provides continuous improvement to property management by streamlining and clarifying the policies for the disposition of contractor inventory.

It should be noted that these recommended changes are consistent with the Office of the Under Secretary of Defense, Acquisition, Technology and Logistics, recent statements emphasizing the need to improve the productivity of the defense industry and remove Government impediments to efficiency.

There are four reports currently required to assure appropriate use and disposition of contract property (SF 1423, Inventory Verification Survey; SF 1424, Inventory Disposal Report; SF 1428, Inventory Disposal Schedule; and SF 1429, Inventory Disposal Schedule Continuation Sheet). All of these forms are available online and may be submitted by the contractor using electronic means. It should be noted that DoD no longer requires the use of the SF 1428 and 1429 forms and instead uses the Web-enabled Plant Clearance Automated Reutilization and Reporting System (PCARRS). NASA and other Federal agency contractors use PCARRS when their contracts are delegated to Defense Contract Management Agency (DCMA) for plant clearance. Use of PCARRS reduces burdens on small businesses as well as other businesses by providing an easily accessible Web-based reporting mechanism.

This rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives that would meet the objectives of this rule. However, this rule is not expected to have a significant economic impact on a substantial number of small entities. In fact, the current impact to both large and small contractors will be reduced. For example, the current FAR requires Government approval of contractor scrap procedures prior to allowing the contractor to dispose of ordinary production scrap. In addition, the current practice of requiring contractors (without approved scrap procedures) to submit inventory schedules or scrap lists for production scrap assumes that such practice is in all cases economically or otherwise justified. This practice unnecessarily burdens small contractors that generate only small amounts of scrap.

The final rule removes the requirement for Government approvals of contractor scrap procedures and submission of inventory schedules and scrap lists, thus easing the burden on large and small contractors alike. It should be noted that contractor procedures would still be required and evaluated by the agency responsible for contract administration, as a normal part of contract property administration. The new rule will also result in more consistent levels of Government oversight, further easing the burden on small entities.

The collection of information required by this rule has been reduced to the minimum necessary to assure compliance with the Government's statutory accountability requirements.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the Final Regulatory Flexibility Analysis (FRFA) to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements. OMB has cleared this information collection requirement under OMB Control Number 9000–0075, titled: Government Property.

List of Subjects in 48 CFR Parts 2, 31, 32, 45, 49, 51, 52, and 53

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 31, 32, 45, 49, 51, 52, and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 31, 32, 45, 49, 51, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b) by adding, in alphabetical order, the definition ''Surplus property'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Surplus property means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA). (See 41 CFR 102–36.40).

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 3. Amend section 31.205–19 by revising paragraphs (e)(2)(iv) introductory text, (e)(2)(iv)(A), and (e)(2)(iv)(C) to read as follows:

31.205–19 Insurance and indemnification.

* * * * *

(e) * * *

(2) * * *

(iv) Costs of insurance for the risk of loss of Government property are allowable to the extent that—

(A) The contractor is liable for such loss;

* * * * *

(C) Such insurance does not cover loss of Government property that results from willful misconduct or lack of good faith on the part of any of the contractor's managerial personnel (as described in FAR 52.245–1 (h)(1)(ii)).

* * * * *

PART 32—CONTRACT FINANCING

■ 4. Amend section 32.503–16 by revising the first sentence of paragraph (a) to read as follows:

32.503–16 Risk of loss.

(a) Under the Progress Payments clause, and except for normal spoilage, the contractor bears the risk of loss for Government property under the clause, even though title is vested in the Government, unless the Government has expressly assumed this risk. * * *

* * * * *

■ 5. Amend section 32.1010 by revising the first sentence of paragraph (a) to read as follows:

32.1010 Risk of loss.

(a) Under the clause at 52.232–32, Performance-Based Payments, and except for normal spoilage, the contractor bears the risk of loss for Government property, even though title is vested in the Government, unless the Government has expressly assumed this risk. * * *

* * * * *

PART 45—GOVERNMENT PROPERTY

■ 6. Revise section 45.000 to read as follows:

45.000 Scope of part.

(a) This part prescribes policies and procedures for providing Government property to contractors; contractors' management and use of Government property; and reporting, redistributing, and disposing of contractor inventory.

(b) It does not apply to—

(1) Government property provided under any statutory leasing authority, except as to non-Government use of property under 45.301(f);

(2) Property to which the Government has acquired a lien or title solely because of partial, advance, progress, or performance based payments;

(3) Disposal of real property;

(4) Software and intellectual property; or

(5) Government property that is incidental to the place of performance, when the contract requires contractor personnel to be located on a Government site or installation, and when the property used by the contractor within the location remains accountable to the Government. Items considered to be incidental to the place of performance include, for example, office space, desks, chairs, telephones, computers, and fax machines.

■ 7. Amend section 45.101 by—

■ a. Removing the definition ''Acquisition cost'';

■ b. Adding, in alphabetical order, the definitions ''Loss of Government property'' and ''Production scrap'';

■ c. Removing the definition ''Surplus property''; and

■ d. Adding, in alphabetical order, the definition ''Unit acquisition cost''. The added text reads as follows:

45.101 Definitions.

* * * * *

Loss of Government property means unintended, unforeseen or accidental loss, damage, or destruction of Government property that reduces the Government's expected economic benefits of the property. Loss of Government property does not include occurrences such as purposeful destructive testing, obsolescence, normal wear and tear, or manufacturing defects. Loss of Government property includes, but is not limited to—

(1) Items that cannot be found after a reasonable search;

(2) Theft;

(3) Damage resulting in unexpected harm to property requiring repair to restore the item to usable condition; or

(4) Destruction resulting from incidents that render the item useless for its intended purpose or beyond economical repair.

* * * * *

Production scrap means unusable material resulting from production, engineering, operations and maintenance, repair, and research and development contract activities. Production scrap may have value when re-melted or reprocessed, *e.g.,* textile and metal clippings, borings, and faulty castings and forgings.

* * * * *

Unit acquisition cost means—

(1) For Government-furnished property, the dollar value assigned by the Government and identified in the contract; and

(2) For contractor-acquired property, the cost derived from the contractor's records that reflect consistently applied generally accepted accounting principles.

■ 8. Amend section 45.102 by adding paragraph (e) to read as follows:

45.102 Policy.

* * * * *

(e) Government property, other than foundations and similar improvements necessary for installing special tooling, special test equipment, or equipment, shall not be installed or constructed on contractor-owned real property in such fashion as to become nonseverable, unless the head of the contracting activity determines that such installation or construction is necessary and in the Government's interest.

■ 9. Amend section 45.104 by—

■ a. Revising the introductory text of paragraph (a);

■ b. Revising paragraph (b); and

■ c. Adding paragraphs (d) and (e).

The revised and added text reads as follows:

45.104 Responsibility and liability for Government property.

(a) Generally, contractors are not held liable for loss of Government property under the following types of contracts:

* * * * *

(b) The contracting officer may revoke the Government's assumption of risk when the property administrator determines that the contractor's property management practices are noncompliant with contract requirements.

* * * * *

(d) With respect to loss of Government property, the contracting officer, in consultation with the property administrator, shall determine—

(1) The extent, if any, of contractor liability based upon the amount of damages corresponding to the associated property loss; and

(2) The appropriate form and method of Government recovery (may include repair, replacement, or other restitution).

(e) Any monies received as financial restitution shall be credited to the Treasury of the United States as miscellaneous receipts, unless otherwise authorized by statute (31 U.S.C. 3302(b)).

■ 10. Amend section 45.105, by revising the first sentence of the introductory text of paragraph (b), and paragraphs (b)(1) and (d) to read as follows:

45.105 Contractor's property management system compliance.

* * * * *

(b) The property administrator shall notify the contractor in writing when the contractor's property management system does not comply with contractual requirements, shall request prompt correction of deficiencies, and shall request from the contractor a corrective action plan, including a schedule for correction of the deficiencies. * * *

(1) Revocation of the Government's assumption of risk for loss of Government property; and/or

* * * * *

(d) When the property administrator determines that a reported case of loss of Government property is a risk assumed by the Government, the property administrator shall notify the contractor in writing that it is granted relief of stewardship responsibility and liability in accordance with 52.245–1(f)(1)(vii). Where the property administrator determines that the risk of loss of Government property is not assumed by the Government, the property administrator shall request that the contracting officer hold the contractor responsible and liable.

■ 11. Amend section 45.107 by—

■ a. Revising paragraph (a)(1)(i);

■ b. Removing from paragraph (b) ''service contracts'' and adding ''fixed-price service contracts'' in its place; and

■ c. Removing from paragraph (d) ''acquisition cost'' and adding ''unit acquisition cost'' in its place.

The revised text reads as follows:

45.107 Contract clauses.

(a)(1) * * *

(i) All cost-reimbursement and time-and-material type solicitations and contracts, and labor-hour solicitations when property is expected to be furnished for the labor-hour contracts.

* * * * *

■ 12. Amend section 45.201 by—

■ a. Removing from paragraph (a)(1) ''tracking and/or'' and adding ''tracking and management, and'' in its place;

■ b. Removing from paragraph (a)(4) ''tracking); and'' and adding ''tracking and management); and'' in its place;

■ c. Revising paragraph (c)(4); and

■ d. Removing from paragraph (d) ''providing property.'' and adding ''providing property or in a special provision.'' in its place.

The revised text reads as follows:

45.201 Solicitation.

* * * * *

(c) * * *

(4) A description of the offeror's property management system, plan, and any customary commercial practices, voluntary consensus standards, or industry-leading practices and standards to be used by the offeror in managing Government property.

* * * * *

■ 13. Amend section 45.202 by revising paragraph (a) to read as follows:

45.202 Evaluation procedures.

(a) The contracting officer shall consider any potentially unfair competitive advantage that may result from an offeror or contractor possessing Government property. This shall be done by adjusting the offers by applying, for evaluation purposes only, a rental equivalent evaluation factor as specified in FAR 52.245–9.

* * * * *

■ 14. Amend section 45.602–1 by—

■ a. Removing from paragraphs (b)(2) and (b)(3) ''Require a contractor'' and adding ''Require the contractor'' in its place;

■ b. Removing from paragraph (b)(4) ''might entitle'' and adding ''may entitle'' in its place;

■ c. Revising the introductory text of paragraph (c) and the introductory text of paragraph (c)(1);

■ d. Removing from paragraph (c)(1)(i) ''acquisition cost'' and adding ''unit acquisition cost'' in its place; and

■ e. Revising paragraph (c)(1)(iv).

The revised text reads as follows:

45.602–1 Inventory disposal schedules.

* * * * *

(c) The contractor may request the plant clearance officer's approval to remove the Government property from an inventory schedule.

(1) Plant clearance officers should approve removal of Government property from an inventory schedule when—

* * * * *

(iv) The contractor has requested continued use of the Government property, and the contracting officer has authorized its retention and further use.

* * * * *

■ 15. Revise section 45.602–2 to read as follows:

45.602–2 Reutilization priorities.

Plant clearance officers shall initiate reutilization actions for all property not meeting the abandonment or destruction criteria of 45.603(b). Authorized methods, listed in descending order from highest to lowest priority, are—

(a) Reuse within the owning agency;

(b) Transfer of educationally useful equipment to schools and nonprofit organizations (see Executive Order 12999, Educational Technology: Ensuring Opportunity For All Children In The Next Century, April 17, 1996, and 15 U.S.C. 3710(i));

(c) Report to GSA for reuse within the Federal Government or donation as surplus property;

(d) Dispose of the following property in accordance with agency procedures without reporting to GSA:

(1) Property determined appropriate for abandonment or destruction (see Federal Management Regulation (FMR) 102–36.305, 41 CFR 102–36.305).

(2) Property furnished to nonappropriated fund activities (see FMR 102–36.165, 41 CFR 102–36.165).

(3) Foreign excess personal property (see FMR 102–36.380, 41 CFR 102–36.380).

(4) Scrap, except aircraft in scrap condition.

(5) Perishables, defined for the purposes of this section as any personal property subject to spoilage or decay.

(6) Trading stamps and bonus goods.

(7) Hazardous waste or toxic and hazardous materials.

(8) Controlled substances.

(9) Property dangerous to public health and safety.

(10) Classified items or property determined to be sensitive for reasons of national security; and

(e) Dispose of nuclear materials (see 45.603–3(b)(5)) in accordance with the Nuclear Regulatory Commission, applicable state licenses, applicable Federal regulations, and agency regulations.

■ 16. Revise section 45.603 to read as follows:

45.603 Abandonment or destruction of personal property.

(a) When contractor inventory is processed through the reutilization screening process prescribed in 45.602–2 without success, and provided the property has no commercial value, does not require demilitarization, and does not constitute a danger to public health or welfare, plant clearance officers or other authorized officials may without further approval—

(1) Direct the contractor to destroy the property;

(2) Abandon non-sensitive property at the contractor's or subcontractor's premises; or

(3) Abandon sensitive property at the contractor's or subcontractor's premises, with contractor consent.

(b) Provided a Government reviewing official at least one level higher than the plant clearance officer or other agency authorized official approves, plant clearance officers or other agency authorized officials may authorize the abandonment, or order the destruction of other contractor inventory at the contractor's or subcontractor's premises, in accordance with FMR 102–36.305 through 325 (41 CFR 102–36.305–325) and consistent with the following:

(1) The property is not considered sensitive, does not require demilitarization, has no commercial value or reutilization, transfer or donation potential, and does not constitute a danger to public health or welfare.

(2) The estimated cost of continued care and handling of the property (including advertising, storage and other costs associated with making the sale), exceed the estimated proceeds from its sale.

(c) In lieu of abandonment or its authorized destruction, the plant clearance officer or authorized official may authorize the donation of property including unsold surplus property to public bodies, provided that the property is not sensitive property, does not require demilitarization, and it does not constitute a danger to public health or welfare. The Government will not bear any of the costs incident to such donations.

(d) Unless the property qualifies for one of the exceptions under FMR 102–36.330 (41 CFR 102–36.330), the plant clearance officer or requesting official will ensure prior public notice of such actions of abandonment or destruction consistent with FMR 102–36.325 (41 CFR 102–36.325).

■ 17. Revise the section heading of 45.604 to read as follows:

45.604 Sale of surplus personal property.

* * * * *

■ 18. Revise section 45.604–1 to read as follows:

45.604–1 Sales procedures.

Surplus personal property that has completed screening in accordance with 45.602–3(a) shall be sold in accordance with the policy for the sale of surplus personal property contained in the Federal Management Regulation, at part 102–38 (41 CFR part 102–38). Agencies may specify implementing procedures.

45.604–2 [Removed]

■ 19. Remove section 45.604–2.

45.604–3 and 45.604–4 [Redesignated as 45.604–2 and 45.604–3]

■ 20. Redesignate sections 45.604–3 and 45.604–4 as sections 45.604–2 and 45.604–3, respectively.

■ 21. Revise the newly redesignated section 45.604–2 to read as follows:

45.604–2 Use of GSA sponsored sales centers.

Agencies may use sales center services. Use of such centers for sale of surplus property is authorized when in the best interest of the Government, consistent with contract terms and conditions.

■ 22. Add section 45.604–4 to read as follows:

45.604–4 Sale of property pursuant to the exchange/sale authority.

Agencies should consider the sale of property pursuant to the exchange/sale authority in FMR 102–39 (41 CFR part 102–39) when agencies are acquiring or plan to acquire similar products and other requirements of the authority are satisfied.

■ 23. Revise section 45.605 to read as follows:

45.605 Inventory disposal reports.

The plant clearance officer shall promptly prepare an SF 1424, Inventory Disposal Report, following disposition of the property identified on an inventory disposal schedule and the crediting of any related proceeds. The report shall identify any lost or otherwise unaccounted for property and any changes in quantity or value of the property made by the contractor after submission of the initial inventory disposal schedule. The report shall be provided to the administrative contracting officer or, for termination inventory, to the termination contracting officer, with a copy to the property administrator.

45.606 [Removed]

■ 24. Remove section 45.606.

■ 25. Redesignate section 45.606–1 as section 45.606; and revise the newly designated section 45.606 to read as follows:

45.606 Contractor scrap procedures.

(a) The property administrator should, in coordination with the plant clearance officer, ensure that contractor scrap disposal processes, methods, and practices allow for effective, efficient, and proper disposition and are properly documented in the contractor's property management procedures.

(b) The property administrator should determine the extent to which separate disposal processing or physical segregation for different scrap types is or may be required. Such scrap may require physical segregation, unique disposal processing, or separate plant clearance reporting. For example, the scope of work may create scrap—

(1) Consisting of sensitive items;

(2) Containing hazardous materials or wastes;

(3) Contaminated with hazardous materials or wastes;

(4) That is classified or otherwise controlled;

(5) Containing precious or strategic metals; or

(6) That is dangerous to public health or safety.

(c) Absent contract terms and conditions to the contrary, the Government may abandon parts removed and replaced from property as a result of normal maintenance actions or removed from property as a result of the repair, maintenance, overhaul, or modification process.

45.606–2 and 45.606–3 [Removed]

■ 26. Remove sections 45.606–2 and 45.606–3.

PART 49—TERMINATION OF CONTRACTS

49.204 [Amended]

■ 27. Amend section 49.204 by removing from paragraph (b) ''destroyed, lost, stolen, or'' and adding ''lost or'' in its place.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

51.106 [Amended]

■ 28. Amend section 51.106 by removing from paragraph (b) ''having an'' and adding ''having a unit'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 29. Amend section 52.232–16 by revising the date of the clause, and the last sentence of paragraph (e) to read as follows:

52.232–16 Progress Payments.

* * * * *

PROGRESS PAYMENTS (APR 2012)

* * * * *

(e) * * * The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is lost (see 45.101).

* * * * *

■ 30. Amend section 52.232–32 by revising the date of the clause, and the last sentence of paragraph (g) to read as follows:

52.232–32 Performance-Based Payments.

* * * * *

PERFORMANCE-BASED PAYMENTS (APR 2012)

* * * * *

(g) * * * If any property is lost (see 45.101), the basis of payment (the events or performance criteria) to which the property is related shall be deemed to be not in compliance with the terms of the contract and not payable (if the property is part of or needed for performance), and the Contractor shall refund the related performance-based payments in accordance with paragraph (d) of this clause.

* * * * *

■ 31. Amend section 52.245–1 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a) by—

■ i. Removing the definition ''Acquisition cost'';

■ ii. Adding, in alphabetical order, the definitions, ''Loss of Government property'', and ''Production scrap;

■ iii. Removing the definition ''Surplus property''; and

■ iv. Adding, in alphabetical order, the definition ''Unit acquisition cost''.

■ c. Revising paragraph (b)(1);

■ d. Removing from paragraph (b)(2) '', stolen, damaged, or destroyed'';

■ e. Adding paragraph (b)(4);

■ f. Revising paragraph (e);

■ g. Removing from the introductory text of paragraph (f)(1)(ii) ''property (document the receipt)'' and adding ''property and document the receipt'' in its place;

■ h. Revising paragraphs (f)(1)(iii)(A)(*1*), (f)(1)(iii)(A)(*10*), (f)(1)(v)(A), (f)(1)(vi), and (f)(1)(vii);

■ i. Removing from paragraph (f)(1)(x) ''loss, theft, damage, or destruction'' and adding ''loss of Government property'' in its place;

■ j. Removing from paragraph (f)(2) ''acquisitions and dispositions of'' and adding ''acquisitions, loss of Government property, and disposition of'' in its place;

■ k. Removing paragraph (f)(3);

■ l. Removing from the introductory text of paragraph (h)(1) ''loss, theft, damage or destruction to the'' and adding ''loss of'' in its place;

■ m. Revising paragraphs (h)(1)(ii), (h)(1)(iii), (h)(2), and (h)(3);

■ n. Redesignating paragraph (h)(4) as paragraph (h)(5);

■ o. Adding a new paragraph (h)(4);

■ p. Adding the words ''or authorizing official'' to the end of the introductory text of paragraph (j);

■ q. Removing paragraph (j)(1);

■ r. Redesignating paragraphs (j)(2) through (j)(10) as paragraphs (j)(1) through (j)(9), respectively;

■ s. Revising the newly redesignated paragraph (j)(1), the introductory text of

paragraph (j)(2)(i), (j)(2)(i)(A), (j)(2)(ii), (j)(2)(iii), (j)(2)(iv)(C), and (j)(3);

■ t. Removing from the first sentence of the newly redesignated paragraph (j)(6)(ii) the words ''Government property'' and adding ''property'' in its place;

■ u. Removing the newly redesignated paragraph (j)(7)(i);

■ v. Further redesignating newly redesignated paragraphs (j)(7)(ii) and (j)(7)(iii) as (j)(7)(i) and (j)(7)(ii), respectively;

■ w. Removing from the newly redesignated paragraph (j)(9) ''paragraph (j)(4)'' and adding ''paragraph (j)(3)'' in its place;

■ x. Removing from paragraphs (k)(1) and (k)(2) ''Government property'', and adding ''property'' in its place;

■ y. Redesignating paragraph (k)(3) as paragraph (k)(4); and adding a new paragraph (k)(3);

■ z. Removing from Alternate I ''(*AUG 2010*)'' and adding ''(APR 2012)'' in its place; and removing from paragraph (h)(1) of Alternate I ''loss, theft, damage, or destruction'' and adding ''loss'' in its place; and

■ aa. Removing from Alternate II ''(*JUN 2007*)'' and adding ''(APR 2012)'' in its place; and removing from the first and second sentences of paragraph (e)(3) of Alternate II ''having an'' and adding ''having a unit'' in its place (two times).

The added and revised text reads as follows:

52.245–1 Government Property.

* * * * *

GOVERNMENT PROPERTY (APR 2012)

(a) * * *

Loss of Government property means unintended, unforeseen or accidental loss, damage or destruction to Government property that reduces the Government's expected economic benefits of the property. Loss of Government property does not include purposeful destructive testing, obsolescence, normal wear and tear or manufacturing defects. Loss of Government property includes, but is not limited to—

(1) Items that cannot be found after a reasonable search;

(2) Theft;

(3) Damage resulting in unexpected harm to property requiring repair to restore the item to usable condition; or

(4) Destruction resulting from incidents that render the item useless for its intended purpose or beyond economical repair.

* * * * *

Production scrap means unusable material resulting from production, engineering, operations and maintenance, repair, and research and development contract activities. Production scrap may have value when re-melted or reprocessed, *e.g.,* textile and metal clippings, borings, and faulty castings and forgings.

* * * * *

Unit acquisition cost means—

(1) For Government-furnished property, the dollar value assigned by the Government and identified in the contract; and

(2) For contractor-acquired property, the cost derived from the Contractor's records that reflect consistently applied generally accepted accounting principles.

* * * * *

(b) * * *

(1) The Contractor shall have a system of internal controls to manage (control, use, preserve, protect, repair, and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective and efficient control of Government property. The Contractor shall disclose any significant changes to its property management system to the Property Administrator prior to implementation of the changes. The Contractor may employ customary commercial practices, voluntary consensus standards, or industry-leading practices and standards that provide effective and efficient Government property management that are necessary and appropriate for the performance of this contract (except where inconsistent with law or regulation).

* * * * *

(4) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness and shall perform periodic internal reviews, surveillances, self assessments, or audits. Significant findings or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

* * * * *

(e) *Title to Government property.* (1) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as ''Government property''), is subject to the provisions of this clause. The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Title vests in the Government for all property acquired or fabricated by the Contractor in accordance with the financing provisions or other specific requirements for passage of title in the contract. Under fixed price type contracts, in the absence of financing provisions or other specific requirements for passage of title in the contract, the Contractor retains title to all property acquired by the Contractor for use on the contract, except for property identified as a deliverable end item. If a deliverable item is to be retained by the Contractor for use after inspection and acceptance by the Government, it shall be made accountable to the contract through a contract modification listing the item as Government-furnished property.

(3) *Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.* (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—

(A) Issuance of the property for use in contract performance;

(B) Commencement of processing of the property for use in contract performance; or

(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(f) * * *

(1) * * *

(iii) * * *

(A) * * *

(*1*) The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.

* * * * *

(*10*) Date placed in service (if required in accordance with the terms and conditions of the contract).

* * * * *

(v) * * *

(A) The Contractor shall award subcontracts that clearly identify items to be provided and the extent of any restrictions or limitations on their use. The Contractor shall ensure appropriate flow down of contract terms and conditions (*e.g.,* extent of liability for loss of Government property.

* * * * *

(vi) *Reports.* The Contractor shall have a process to create and provide reports of discrepancies, loss of Government property, physical inventory results, audits and self-assessments, corrective actions, and other property-related reports as directed by the Contracting Officer.

(vii) *Relief of stewardship responsibility and liability.* The Contractor shall have a process to enable the prompt recognition, investigation, disclosure and reporting of loss of Government property, including losses that occur at subcontractor or alternate site locations.

(A) This process shall include the corrective actions necessary to prevent recurrence.

(B) Unless otherwise directed by the Property Administrator, the Contractor shall investigate and report to the Government all incidents of property loss as soon as the facts become known. Such reports shall, at a minimum, contain the following information:

(*1*) Date of incident (if known).

(*2*) The data elements required under paragraph (f)(1)(iii)(A) of this clause.

(*3*) Quantity.

(*4*) Accountable contract number.

(*5*) A statement indicating current or future need.

(*6*) Unit acquisition cost, or if applicable, estimated sales proceeds, estimated repair or replacement costs.

(*7*) All known interests in commingled material of which includes Government material.

(*8*) Cause and corrective action taken or to be taken to prevent recurrence.

(*9*) A statement that the Government will receive compensation covering the loss of Government property, in the event the Contractor was or will be reimbursed or compensated.

(*10*) Copies of all supporting documentation.

(*11*) Last known location.

(*12*) A statement that the property did or did not contain sensitive, export controlled, hazardous, or toxic material, and that the appropriate agencies and authorities were notified.

(C) Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility and liability for property when—

(*1*) Such property is consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator;

(*2*) Property Administrator grants relief of responsibility and liability for loss of Government property;

(*3*) Property is delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(*4*) Property is disposed of in accordance with paragraphs (j) and (k) of this clause.

* * * * *

(h) * * *

(1) * * *

(ii) Loss of Government property that is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss of Government property due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss of Government property occurred while the Contractor had adequate property management practices or the loss did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

(2) The Contractor shall take all reasonable actions necessary to protect the property from further loss. The Contractor shall separate the damaged and undamaged property, place all the affected property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss of Government property.

(4) The Contractor shall reimburse the Government for loss of Government property, to the extent that the Contractor is financially liable for such loss, as directed by the Contracting Officer.

* * * * *

(j) * * *

(1) *Predisposal requirements.* (i) If the Contractor determines that the property has the potential to fulfill requirements under other contracts, the Contractor, in consultation with the Property Administrator, shall request that the Contracting Officer transfer the property to the contract in question, or provide authorization for use, as appropriate. In lieu of transferring the property, the Contracting Officer may authorize the Contractor to credit the costs of Contractor-acquired property (material only) to the losing contract, and debit the gaining contract with the corresponding cost, when such material is needed for use on another contract. Property no longer needed shall be considered contractor inventory.

(ii) For any remaining Contractor-acquired property, the Contractor may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices.)

(2) *Inventory disposal schedules.* (i) Absent separate contract terms and conditions for property disposition, and provided the property was not reutilized, transferred, or otherwise disposed of, the Contractor, as directed by the Plant Clearance Officer or authorizing official, shall use Standard Form 1428, Inventory Disposal Schedule or electronic equivalent, to identify and report—

(A) Government-furnished property that is no longer required for performance of this contract;

* * * * *

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government, in the event that the property is offered for sale.

(iii) Separate inventory disposal schedules are required for aircraft in any condition, flight safety critical aircraft parts, and other items as directed by the Plant Clearance Officer.

(iv) * * *

(C) For precious metals in raw or bulk form, the type of metal and estimated weight.

* * * * *

(3) *Submission requirements.* (i) The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—

(A) 30 days following the Contractor's determination that a property item is no longer required for performance of this contract;

(B) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(C) 120 days, or such longer period as may be approved by the Termination Contracting Officer, following contract termination in whole or in part.

(ii) Unless the Plant Clearance Officer determines otherwise, the Contractor need not identify or report production scrap on inventory disposal schedules, and may process and dispose of production scrap in accordance with its own internal scrap procedures. The processing and disposal of other types of Government-owned scrap will be conducted in accordance with the terms and conditions of the contract or Plant Clearance Officer direction, as appropriate.

* * * * *

(k) * * *

(3) Absent contract terms and conditions to the contrary, the Government may abandon parts removed and replaced from property as a result of normal maintenance actions, or removed from property as a result of the repair, maintenance, overhaul, or modification process.

* * * * *

■ 32. Amend section 52.245–2 by revising the date of the clause and paragraph (b) to read as follows:

52.245–2 Government Property Installation Operation Services.

* * * * *

GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES (APR 2012)

* * * * *

(b) The Government bears no responsibility for repair or replacement of any lost Government property. If any or all of the Government property is lost or becomes no longer usable, the Contractor shall be responsible for replacement of the property at Contractor expense. The Contractor shall have title to all replacement property and shall continue to be responsible for contract performance.

* * * * *

■ 33. Amend section 52.245–9 by revising the date of the clause; and removing from paragraph (e)(2) ''The rental charge is'' and adding ''The hourly rental charge is'' in its place.

52.245–9 Use and Charges.

* * * * *

USE AND CHARGES (APR 2012)

* * * * *

■ 34. Amend section 52.249–2 by revising the date of the clause and paragraph (h) to read as follows:

52.249–2 Termination for Convenience of the Government (Fixed-Price).

* * * * *

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012)

* * * * *

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting

Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value as determined by the Contracting Officer, for the loss of the Government property.

* * * * *

■ 35. Amend section 52.249–3 by revising the date of the clause and paragraph (h) to read as follows:

52.249–3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).

* * * * *

TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS) (APR 2012)

* * * * *

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, for the loss of the Government property.

* * * * *

■ 36. Revise section 52.251–1 to read as follows:

52.251–1 Government Supply Sources.

As prescribed in 51.107, insert the following clause:

GOVERNMENT SUPPLY SOURCES (APR 2012)

The Contracting Officer may issue the Contractor an authorization to use Government supply sources in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government unless otherwise specified in the contract. The provisions of the clause at FAR 52.245–1, Government Property, apply to all property acquired under such authorization.

(End of clause)

PART 53—FORMS

■ 37. Amend section 53.245 by revising paragraph (c) to read as follows:

53.245 Government property.

* * * * *

(c) *SF 1423 (Rev. 5/04), Inventory Verification Survey.* (See 45.602–1(b)(1).)

* * * * *

[FR Doc. 2012–4499 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2011–0081, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–56; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2005–56, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding this rule by referring to FAC 2005–56, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: March 2, 2012.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–56 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

LIST OF RULES IN FAC 2005–56

Item	Subject	FAR Case	Analyst
*I	Women-Owned Small Business (WOSB) Program	2010–015	Morgan.
II	Proper Use and Management of Cost-Reimbursement Contracts	2008–030	Clark.
III	Requirements for Acquisitions Pursuant to Multiple-Award Contracts	2007–012	Clark.
*IV	Socioeconomic Program Parity	2011–004	Morgan.
V	Trade Agreements Thresholds	2012–002	Davis.
VI	New Designated Country (Armenia) and Other Trade Agreements Updates	2011–030	Davis.
*VII	Government Property	2010–009	Glover.
VIII	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subject set forth in the documents following these item summaries. FAC 2005–56 amends the FAR as specified below:

Item I—Women-Owned Small Business (WOSB) Program (FAR Case 2010–015)

This rule adopts as final, with changes, an interim rule published in the **Federal Register** at 76 FR 18304 on April 1, 2011, which provides a tool to assist Federal agencies in achieving the 5 percent statutory goal for contracting with women-owned small businesses. This case is based on the Small Business Administration's (SBA) regulations establishing the Women-Owned Small Business (WOSB) Program, authorized under section 8(m) of the Small Business Act (15 U.S.C. 637(m)).

Agencies may restrict competition to Economically Disadvantaged Women-Owned Small Business (EDWOSB) concerns, for contracts assigned a North American Industry Classification Systems (NAICS) code in an industry in which SBA has determined that WOSBs are underrepresented in Federal procurement. For NAICS code industries where WOSBs are not just

underrepresented, but substantially underrepresented, agencies may restrict competition to either EDWOSB concerns or to WOSB concerns eligible under the WOSB Program.

EDWOSB concerns and WOSB concerns eligible under the WOSB Program must be owned and controlled by one or more women who are citizens of the United States. An EDWOSB concern is automatically a WOSB concern eligible under the WOSB Program.

This rule may positively affect EDWOSBs that participate in Federal procurement in industries where SBA determines that WOSBs are underrepresented and may positively affect WOSBs that participate in Federal procurement in industries where SBA determines that WOSBs are substantially underrepresented.

Item II—Proper Use and Management of Cost-Reimbursement Contracts (FAR Case 2008–030)

This final rule amends the FAR to implement section 864 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417), enacted on October 14, 2008. This law aligns with the President's goal of reducing high-risk contracting as denoted in the March 4, 2009, Presidential Memorandum on Government Contracting. Section 864 of the law requires amending the FAR to address the use and management of cost-reimbursement contracts in the following three areas:

1. Circumstances when cost-reimbursement contracts are appropriate.
2. Acquisition plan findings to support the selection of a cost-reimbursement contract.
3. Acquisition resources necessary to award and manage a cost-reimbursement contract.

This rule does not impose any information collection requirements on small business. There is no significant impact on small businesses because this rule is only applicable to internal operating procedures of the Government.

Item III—Requirements for Acquisitions Pursuant to Multiple-Award Contracts (FAR Case 2007–012)

This final rule adopts, with changes, an interim rule published in the **Federal Register** at 76 FR 14548 on March 16, 2011, that amended the FAR to implement section 863 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110–417). Section 863 requires the FAR to be amended to enhance competition in the purchase of property and services by all executive agencies pursuant to multiple-award contracts (including Federal Supply Schedules (FSS)). This final rule requires an FSS ordering activity to conduct appropriate analysis and document the file to determine price reasonableness when placing an order under a blanket purchase agreement (BPA) with hourly rate services. The final rule also removes the requirement for an ordering activity's competition advocate to approve a contracting officer's annual review of a single-award BPA prior to exercise of an option to extend the term of the BPA. This should benefit contractors because it removes a requirement that is considered to be a restriction on the use of FSS single-award BPAs.

Item IV—Socioeconomic Program Parity (FAR Case 2011–004)

This rule adopts as final, with changes, an interim rule published in the **Federal Register** at 76 FR 14566 on March 16, 2011, which implemented section 1347 of the Small Business Jobs Act of 2010 (Pub. L. 111–240). Section 1347(b) clarifies that there is no order of precedence among the small business socioeconomic programs. The FAR interim rule clarified the existence of socioeconomic parity and that contracting officers may exercise discretion when determining whether an acquisition will be restricted to small businesses participating in the 8(a) Business Development Program (8(a)), Historically Underutilized Business Zones (HUBZone) Program, Service-Disabled Veteran-Owned Small Business (SDVOSB) Program, or the Women-Owned Small Business (WOSB) Program. This final rule may have a positive impact on small businesses as it presents the maximum practicable opportunity for small business concerns qualified under the socioeconomic programs to participate in the performance of contracts, and assist Federal agencies in meeting each of the Government's small business contracting goals.

Item V—Trade Agreements Thresholds (FAR Case 2012–002)

This final rule adjusts the thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements as determined by the United States Trade Representative, according to a formula set forth in the agreements. The threshold changes do not have significant cost or administrative impact, because they maintain the status quo by keeping pace with inflation.

Item VI—New Designated Country (Armenia) and Other Trade Agreements Updates (FAR Case 2011–030)

This final rule allows contracting officers to purchase the goods and services of Armenia without application of the Buy American Act if the acquisition is covered by the World Trade Organization Government Procurement Agreement. It also updates the lists of countries that are party to the Agreement on Trade in Civil Aircraft. This rule has no significant impact on small business concerns.

Item VII—Government Property (FAR Case 2010–009)

This final rule amends the FAR to clarify reporting, reutilization, and disposal of Government property and the contractor requirements under the Government property clause. The proposed rule was published on April 4, 2011 (76 FR 18497).

The rule specifically impacts contracting officers and contractors by clarifying disposal of Government property. The rule does not have a significant economic impact on small entities because the rule does not impose any additional requirements on small business.

Item VIII—Technical Amendments

Editorial changes are made at FAR 19.812, 42.203, and 52.209–9.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2012–4502 Filed 3–1–12; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19, 42, and 52

[FAC 2005–56; Item VIII; Docket 2012–0079; Sequence 1]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition

Regulation (FAR) in order to make editorial changes.

DATES: *Effective Date:* March 2, 2012.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1275 First Street NE., 7th Floor, Washington, DC 20417, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–56, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 19, 42, and 52, this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 19, 42, and 52

Government procurement.

Dated: February 21, 2012.

Laura Auletta,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 19, 42, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 19, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

19.812 [Amended]

■ 2. Amend section 19.812 by removing from paragraph (a) ''*http://www.dcma.mil/casbook/casbook.htm*'' and adding ''*https://pubapp.dcma.mil/CASD/main.jsp*'' in its place.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.203 [Amended]

■ 3. Amend section 42.203 by removing ''*http://www.dcma.mil/*'' and adding ''*https://pubapp.dcma.mil/CASD/main.jsp*'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209–9 [Amended]

■ 4. Amend 52.209–9 by removing Alternate I.

[FR Doc. 2012–4504 Filed 3–1–12; 8:45 am]

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FEDERAL REGISTER

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Part III

Federal Communications Commission

47 CFR Chapter 54

Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 11–42, 03–109, 12–23 and CC Docket No. 96–45; FCC 12–11]

Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission comprehensively reforms and begins to modernize the Universal Service Fund's Lifeline program. The reforms adopted in this document substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.

DATES: Effective April 2, 2012, except for the amendments to §§ 54.202(a), 54.401(c), 54.403, 54.407, 54.410, 54.416, 54.417, 54.420, 54.222 which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for those sections, and except for the amendments contained herein to 47 CFR 54.411, 54.412, 54.413 and 54.414 which shall become effective April 1, 2012; and 47 CFR 54.409 which shall become effective June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Kimberly Scardino, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O) in WC Docket Nos. 11–42, 03–109, 12–23 and CC Docket No. 96–45; FCC 12–11, adopted on January 31, 2012 and released on February 6, 2012. There was also a companion document released with this item. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554. Or at the following Internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0207/FCC-12-11A1.doc.*

I. Introduction

1. In this Order, the Commission comprehensively reforms and begins to modernize the Universal Service Fund's Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service (Joint Board), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission's March Notice of Proposed Rulemaking, the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.

2. This Order is another step in the Commission's ongoing efforts to overhaul all USF programs to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband. In June 2011, the Commission adopted the *Duplicative Program Payments Order,* 76 FR 38040, June 29, 2011, which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed the Universal Service Administrative Company (USAC) to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future. Building on those efforts, the unprecedented reforms adopted in today's Order could save the Fund up to an estimated $2 billion over the next three years, keeping money in the pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

3. These savings will reduce growth in the Fund, while providing telephone service to consumers who remain disconnected from the voice networks of the twentieth century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the twenty-first century by closing the broadband adoption gap. This complements the recent *USF/ICC Transformation Order,* 76 FR 76623, December 8, 2011, which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched ''Connect to Compete'' private-sector initiative to increase access to affordable broadband service for low-income consumers.

4. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program's one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal lands that are served by eligible telecommunications carriers (ETCs) that participate in both Lifeline and the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than $5 million in annual support. These reforms are estimated to save the Fund up to $2 billion over the next three years. As part of these reforms we establish a savings target of $200 million in 2012 versus the program's status quo path in the absence of reform, create a mechanism for ensuring that target is met, and put the Commission in a position to determine the appropriate budget for Lifeline in early 2013 after

monitoring the impact of today's fundamental overhaul of the program and addressing key issues in the Further Notice of Proposed Rulemaking (FNPRM), including the appropriate monthly support amount for the program. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of $9.25 per month for non-Tribal subscribers to simplify program administration.

II. Performance Goals & Measures

5. The Order adopts three performance goals for the program: (1) Ensure the availability of voice service for low-income Americans; (2) ensure the availability of broadband service for low-income Americans; and (3) minimize the contribution burden on consumers and businesses. The Order adopts measurements for each of the goals, while delegating to the Bureau authority to resolve implementation aspects of such measurements (for example, determining how to define ''low-income'' and ''next higher'' for the purpose of the measurement).

III. Voice Services Eligible for Discount

6. Consistent with the actions taken in the CAF Order and Sua Sponte Order on Reconsideration, the Order amends the definition of ''Lifeline'' to provide support for ''voice telephony service.'' The Order amends the rules to eliminate the ''basic local service qualifier'' that is currently part of the definition of Lifeline service, but explains that the Commission continues to expect Lifeline providers to provide service that enables consumers to communicate with others that live nearby, while acknowledging that service plans increasingly allow all distance communication. The Order declines to specify minimum service standards for Lifeline service, but states the Commission will monitor service levels to see if it should adopt standards in the future.

IV. Support Amounts for Voice Services

7. Today, ETCs are reimbursed for Lifeline based on a rather complicated tiers structure that is, among other things tied to the ILEC Subscriber Line Charge. To simplify administration of the program and revise the rules to reflect the current marketplace in which more than half of the support is provided to wireless providers that do not charge a SLC, the Order adopts an interim rate of $9.25 to replace the current Tiers 1, 2, and 3, effective April 1, 2012. The interim support amount represents the nationwide average rate of reimbursement as of September 2011. Tier 4, which provides enhanced Lifeline support to residents of Tribal lands, remains unchanged. We seek further comment on setting appropriate permanent support amounts in a Further Notice of Proposed Rulemaking.

V. Consumer Eligibility and Enrollment

A. Uniform Eligibility Criteria

8. The Order establishes a uniform floor of eligibility for Lifeline based on the current federal rules, while allowing states to include more permissive eligibility criteria. Additionally, the Order keeps the current federal income standard of 135% or below of the federal poverty guidelines. This uniformity will simplify program administration for USAC and for ETCs as well as provide a baseline level of program accessibility nationwide.

B. One-per-Household

9. The order adopts a one-per-household requirement. ''Household'' is defined consistent with the Low-Income Home Energy Assistance Program as ''any individual or group of individuals who are living together at the same address as one economic unit,'' with an ''economic unit'' defined as ''all adult individuals contributing to and sharing in the income and expenses of a household.'' The Order permits Lifeline support to individuals living in group living facilities. The Order adopts procedures to enable Lifeline applicants to demonstrate when initially enrolling in the program that any other Lifeline recipients residing at their residential address are part of a separate household and directs USAC, within 30 days of the effective date of the Order, to develop a worksheet that will allow low-income households sharing an address to indicate they are part of a separate household. The Order also directs USAC, within 30 days of the effective date of the Order, to develop print and web materials to be posted on USAC's Web site that both USAC and ETCs can use to educate consumers about the one-per-household rule (*i.e.,* how to determine what persons comprise a household).

C. Determining Consumer Eligibility (At Enrollment and Annually Thereafter)

10. The Order requires all Lifeline subscribers to provide certain certifications when enrolling in Lifeline and annually thereafter. These requirements are as follows:

1. Initial Certification Requirements

11. The Order requires ETCs (or the state administrator, where applicable) to check the program-based eligibility of new Lifeline subscribers at enrollment by accessing available state or federal eligibility databases. Where underlying program eligibility data cannot be accessed, the Order requires new Lifeline subscribers to provide documentation of program-based eligibility, which the entity enrolling the subscriber should review (but not retain). Similarly, the Order extends the current requirement in federal default states that new Lifeline subscribers must present documentation to qualify for Lifeline based on income level to all states. The Order adopts additional certification requirements to protect the program from waste, fraud, and abuse, including requiring consumers to certify upon enrollment and annually thereafter that they are receiving support for only one line per household (as described above), and requires consumers to sign a certification form prior to enrolling in the Lifeline program.

2. Annual Re-Certification Requirements

12. The Order replaces the existing annual verification process with a rule that requires each Lifeline subscriber (both existing subscribers and new subscribers) to provide annual self-certifications attesting to their continued eligibility for the program. The Order requires all ETCs, to re-certify by the end of 2012, all of their subscribers claimed on their June FCC Form 497 and report the results of this annual re-certification process to the Commission, USAC and the relevant state commission (where the state has jurisdiction over the ETC) annually by January 31, 2013. Beginning in 2013, where ETCs cannot re-certify their subscriber by accessing a database, they must re-certify them on an annual basis or elect to have USAC re-certify them. The results of the re-certification process must be filed by January 31st each year. Where ETCs can access underlying state or federal program data to confirm a consumer's ongoing eligibility for Lifeline, the Order allows them to do so in place of the annual re-certification process. The Order adopts a rule that consumers that do not respond to annual re-certifications must be de-enrolled from the program. The Order also adopts a rule requiring consumers to notify their ETC within 30 days if the consumer no longer qualifies for Lifeline.

3. ETC Certifications

13. The Order requires ETCs to make certain certifications annually and when submitting for reimbursement from the program.

D. Tribal Lifeline Eligibility

14. The Order clarifies that residents of Tribal lands are eligible for Lifeline (and Link Up support if served by a high cost recipient) based on (1) Income level; (2) participation in any Tribal-specific federal assistance program identified in the Commission's rules; or (3) participation in any other program identified in the Commission's rules. The Order adopts the NPRM proposal to add the Food Distribution Program on Indian Reservations (FDPIR) to the list of programs that confer eligibility. The Order establishes a waiver and designation process for those Tribal communities that are located outside of reservations, but can show ties to defined Tribal communities, and removes the term ''near reservation'' from the Commission's definition of Tribal lands. The Order requires residents on Tribal lands to follow the same requirements for documentation of income and program based eligibility as other Lifeline recipients, but clarifies that we will continue to allow self-certification of residence on Tribal lands.

E. Electronic Signature

15. The Order allows ETCs and state agencies to capture a subscriber's signature electronically at sign-up, including through the use of interactive voice response systems in compliance with the requirements of the E-Sign Act and the Government Paperwork Elimination Act. The E-Sign Act allows the use of electronic records to satisfy Commission regulations requiring that such information be provided in writing, if the consumer has affirmatively consented to such use and has not withdrawn such consent.

F. Automatic and Coordinated Enrollment

16. The Order encourages states to facilitate coordinated enrollment, but makes clear that automatic enrollment whereby consumers receiving eligible benefits are automatically enrolled in a particular carrier's Lifeline program without their express consent is not permitted because it may increase the incidence of duplicative support.

VI. Reforms To Eliminate Waste, Fraud and Abuse

A. National Lifeline Accountability Database

17. The Order adopts a national duplicates database to detect and eliminate duplicative Lifeline and Link Up support. The Order directs WCB to work with USAC and OMD to establish and implement the database and associated processes. ETCs will be required to query the database to determine whether a prospective subscriber is already receiving Lifeline support from another ETC. The order directs ETCs to (1) populate the database with the necessary information to implement these processes and (2) query the database for each new subscriber prior to receiving reimbursement from the fund for that subscriber. We seek further comment in an FNRPM on how to implement a database to check for eligibility.

B. TLS

18. The Order clarifies that it does not consider a subscriber who has a Lifeline calling plan that includes a set number of calling minutes available for either local or domestic long distance calls to have voluntarily elected to receive TLS. Therefore, TLS support will not be provided to ETCs providing such plans effective April 1, 2012. To the extent an ETC offers service plans that still charge a fee for toll calls that is in addition to the per month or per billing cycle price for the Lifeline service plan, it must provide at no additional cost to the consumer the ability to limit or block calls that would result in additional charge, but the program will no longer provide additional support for this functionality. Support for TLS will be eliminated over two years to mitigate the impact of this change. The Order establishes a limit on TLS support of $3.00 per month per subscriber that will be implemented with April 2012 support payments through the remainder of 2012, beginning with April 2012 disbursements. TLS support will be reduced to $2.00 per month per subscriber in 2013, and eliminated at the beginning of 2014.

C. Link Up

19. The Order eliminates Link Up support to all ETCs on non-Tribal lands, effective April 1, 2012, and limits Link Up on Tribal lands to high cost recipients deploying infrastructure. Marketplace trends indicate that Lifeline consumers increasingly have service options from ETCs that neither draw on Link Up support nor charge the consumer a service initiation fee. In balancing a number of universal service goals with finite resources, we conclude that dollars currently spent for Link Up can be more effectively spent to improve and modernize the Lifeline program.

D. Subscriber Usage of Customer Supported Service

20. The Order establishes a rule that pre-paid ETCs offering service to subscribers for free may not seek reimbursement for subscribers until the subscriber initiates service in the first instance. Moreover, subscribers who fail to ''use'' the service (as that term is defined in the Order/Rules) within 60 consecutive days must be de-enrolled by the carrier and the duplicates database must be updated within one business day. Furthermore, pre-paid ETCs must inform their subscribers that Lifeline services are not transferable, that there is a usage requirement to retain the benefit, and that subscribers will be automatically de-enrolled for non-use.

E. Minimum Consumer Charge

21. The Order does not adopt a minimum consumer charge in light of other W/F/A protections that will be implemented to ensure that consumers do not abuse the program, but notes that this issue could be revisited if the measures adopted fail to address the issues that currently exist. Further, the Order eliminates the current rule that imposes a $1 minimum local charge on Tribal subscribers.

F. Outreach and Marketing

22. Within six months from the Order's effective date, ETCs must include in plain, easy-to-understand language in all of their Lifeline marketing materials (including print, internet, audio and video), that the offering is a Lifeline-supported service; Lifeline is a government assistance program; only eligible consumers may enroll in the program; what documentation is necessary for enrollment; the program is limited to one benefit per household, consisting of either wireline or wireless service; and consumers who willfully make false statements in order to obtain program benefits can be punished with a fine or imprisonment or barred from the program. Additionally, the Order requires ETCs to disclose the company name under which it does business and the details of its Lifeline service offerings in its Lifeline-related marketing and advertising. The Order does not adopt mandatory outreach requirements but directs the Wireline Competition and Consumer and Governmental Affairs Bureau to conduct

an outreach campaign regarding the new program rules.

G. Audits and Enforcement

23. The order requires USAC to revise its existing oversight program (the Beneficiary Compliance Audit and Payment Quality Assurance programs) in light of the new rules. It also adopts a new first-year audit requirement for newly designated ETCs whereby they would be audited by USAC within their first year of providing service. The order also adopts a rule that ETCs drawing more than $5 million, at the holding company level, from the low-income program must conduct biennial independent audits and submit the audit reports to the Commission, USAC, and appropriate state commission. The Order requires ETCs to report to USAC their ownership information, including affiliates and holding companies, which is necessary to implement this new audit requirement. ETCs are put on notice that findings concerning improper payment of funds may result in recapture of those payments under the Improper Payments Elimination and Recovery Act (IPERA) and related Office of Management and Budget implementation guidelines and/or revocation of ETC designation.

VII. Payment of Low-Income Support

24. The order adopts a three-month transition for low-income support to be disbursed based on actual support in place of the current administrative process of paying low-income support based on projected service. The Order accelerates USAC's payment of low-income support for carriers filing the FCC Form 497 electronically by a monthly deadline. The window by which carriers must file revisions or original FCC Form 497s is reduced from fifteen months from the end of a calendar year, to a rolling twelve-month window.

VIII. Modernizing the Program

A. Bundled Services

25. The Order adopts a rule permitting ETCs in all states to allow qualifying low-income consumers to apply Lifeline discounts to all residential service plans that provide voice telephony service, including bundled service packages combining voice and broadband, or packages containing optional calling features. ETCs will be required to apply partial subscriber payments to the cost of the Lifeline voice component of a package before paying down any additional services, and must notify Lifeline consumers of this rule in writing. In a Further Notice, described below, we seek further comment on whether to adopt a rule mandating that ETCs offer Lifeline discounts on all bundled service packages and packages with optional calling features.

B. Broadband Pilot

26. The Order establishes a broadband pilot program aimed at generating statistically significant data that will allow the Commission, ETCs, and the public to analyze the effectiveness of different approaches to using Lifeline funds to making broadband more affordable for low-income Americans while providing support that is sufficient but not excessive. The broadband pilot program will be funded with some of the savings from the duplicate resolution process.

C. Managing the Size of the Low Income Fund

27. The Order sets a savings target of $200 million for 2012. The Bureau shall provide to each Commissioner an interim report no later than six months from the adoption of the Order analyzing the reforms' progress in meeting the savings target. Not later than one year after the adoption of the Order, the Bureau shall provide to each Commissioner a report as to whether the reforms have succeeded in meeting the savings target; and, if they have not, analyzing the causes, providing options for realizing those savings, and making specific recommendations for corrective action to realize those savings. Both reports shall be made available for public input on the Commission's Web site.

IX. Eligible Telecommunications Carrier Requirements

A. Facilities-Based Requirements for Lifeline-Only ETCs

28. The Commission forbears from applying the Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. Specifically, each carrier must (i) comply with certain 911 requirements; and (ii) file, subject to Bureau approval, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order. To avoid disruption to subscribers served by existing Lifeline-only ETCs that previously received forbearance in those states where they were designated prior to December 29, 2011, those ETCs can continue to receive reimbursement in those states pending approval of their compliance plan, provided they submit their plan to the Bureau by July 1, 2012. Non-facilities-based carriers designated after December 29, 2011 will not receive reimbursement from the Fund until the Bureau approves their compliance plans.

B. Impact of New Rules on Prior Forbearance Conditions

29. To the extent that any of the conditions in the prior forbearance orders and compliance plans are inconsistent with the rules adopted in the Order, the newly adopted rules shall prevail. However, any carrier whose grant of forbearance was conditioned on more stringent compliance plans must comply with those additional obligations as well as the rules adopted in the Order.

C. Additional Rule Amendments

30. The Order makes several changes to the rules regarding Lifeline providers to eliminate waste and inefficiency, and to increase accountability in the program. The Order amends section 54.202 to clarify that Lifeline-only ETCs are not required to submit a five-year improvement plan as part of its application for designation. Carriers seeking to be designated as a Lifeline-only ETC must demonstrate their technical and financial capacity to provide the supported services. All ETCs receiving Lifeline must annually report the names and identifiers used by the ETC, its holding company, operating companies and affiliates. Additonally, the Order requires every ETC receiving low-income support to annually provide to the Commission and USAC general information regarding their Lifeline plans for voice telephony service offered specifically for low-income consumers.

X. APCC Petition

31. The Order denies a petition for rulemaking and a petition for interim relief by the American Public Communications Council to subsidize the payphone industry through Lifeline.

XI. Procedural Matters

A. Paperwork Reduction Act Analysis

32. This Report and Order contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The new requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified

information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. We describe the impacts that might affect small businesses, which include most businesses with fewer than 25 employees, in the Final Rregulatory Flexibility Analysis below.

B. Congressional Review Act

33. The Commission will send a copy of this *Report and Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Final Regulatory Flexibility Analysis

34. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, we have prepared a Final Regulatory Flexibility Analysis concerning the possible impact of the rule changes contained in this *Report and Order* on small entities.

35. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Lifeline and Link Up Reform and Modernization Notice of Proposed Rulemaking (*Lifeline and Link Up NPRM*), 76 FR 16482, March 23, 2011. The Commission sought written public comments on the proposals in the *Lifeline and Link Up NPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

D. Need for, and Objectives of, the Order

36. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Among other programs, the Commission adopted a program to provide discounts that make basic, local telephone service affordable for low-income consumers.

37. In this Order, we comprehensively reform and begin to modernize the Universal Service Fund's Lifeline program (Lifeline or the program). Building on recommendations from the Federal-State Joint Board on Universal Service (''Joint Board''), proposals in the National Broadband Plan, input from the Government Accountability Office (GAO), and comments received in response to the Commission's March Notice of Proposed Rulemaking the reforms adopted in this Order substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund (USF or the Fund). We take these significant actions, while ensuring that eligible low-income consumers who do not have the means to pay for telephone service can maintain their current voice service through the Lifeline program and those who are not currently connected to the networks will have the opportunity to benefit from this program and the numerous opportunities and security that telephone service affords.

38. This Order is another step in the Commission's ongoing efforts to overhaul all Universal Service Fund programs to fulfill the goals Congress gave us to promote the availability of modern networks and the capability of all American consumers to access and use those networks. Consistent with previous efforts, we act here to eliminate waste and inefficiency, increase accountability, and transition the Fund from supporting standalone telephone service to broadband. In June 2011, the Commission adopted the *Duplicative Program Payments Order,* which made clear that an eligible consumer may only receive one Lifeline-supported service, established procedures to detect and de-enroll subscribers receiving duplicative Lifeline-supported services, and directed USAC to implement a process to detect and eliminate duplicative Lifeline support—a process now completed in 12 states and expanding to other states in the near future. Building on those efforts, we estimate that the unprecedented reforms adopted in today's Order could save the Fund up to an estimated $2 billion over the next three years, keeping money in the pockets of American consumers that otherwise would have been wasted on duplicative benefits, subsidies for ineligible consumers, or fraudulent misuse of Lifeline funds.

39. These savings will reduce growth in the Fund but at the same time provide telephone service to consumers who remain disconnected from the voice networks of the Twentieth Century. Moreover, by using a fraction of the savings from eliminating waste and abuse in the program to create a broadband pilot program, we explore how Lifeline can best be used to help low-income consumers access the networks of the Twenty-First Century by closing the broadband adoption gap. This complements the recent *USF/ICC Transformation Order and FNPRM,* which reoriented intercarrier compensation and the high-cost fund toward increasing the availability of broadband networks, as well as the recently launched ''Connect to Compete'' private-sector initiative to increase access to affordable broadband service for low-income consumers.

40. To make the program more accountable, the Order establishes clear goals and measures and establishes national eligibility criteria to allow low-income consumers to qualify for Lifeline based on either income or participation in certain government benefit programs. The Order adopts rules for Lifeline enrollment, including enhanced initial and annual certification requirements, and confirms the program's one-per-household requirement. The Order simplifies Lifeline reimbursement and makes it more transparent. The Commission adopts a number of reforms to eliminate waste, fraud and abuse in the program, including creating a National Lifeline Accountability Database to prevent multiple carriers from receiving support for the same subscribers; phasing out toll limitation service support; eliminating Link Up support except for recipients on Tribal lands that are served by eligible telecommunications carriers (''ETCs'') that participate in both Lifeline and the high-cost program; reducing the number of ineligible subscribers in the program; and imposing independent audit requirements on carriers receiving more than $5 million in annual support. These reforms are expected to save the Fund approximately $2 billion over the next three years. Using savings from the reforms, the Order establishes a Broadband Adoption Pilot Program to test and determine how Lifeline can best be used to increase broadband adoption among Lifeline-eligible consumers. We also establish an interim base of uniform support amount of $9.25 per month for non-Tribal subscribers to simplify program administration.

E. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

41. No comments were filed in response to the IRFA attached to the *Lifeline and Link Up NPRM.* Notwithstanding the foregoing, general comments discussing the impact of the proposed rules on small business were submitted in response to the *Lifeline and Link Up NPRM.* With respect to the proposal to provide household identifying information as a measure to prevent duplicate enrollment, one commenter expressed concern that the imposition of a data transmission requirement would result in new training, programming, and administrative expenses which would be burdensome on small entities. One commenter opposed any limitations placed on Link Up support arguing that such limitations would inhibit small ETCs' ability to participate in the low income program. Commenters expressed concern that the proposed audit requirements in the NPRM would be expensive and difficult for small companies to comply with. One commenter opposed the proposed verification proposals in the NPRM asserting that such new requirements would be unnecessarily expensive and disproportionately burden small businesses. Commenters opposed the proposed sampling methodology to confirm eligibility as it would have the result of requiring small entities to sample most if not all of their Lifeline subscribers. Commenters asserted that outreach efforts may be unreasonably burdensome for small ETCs. In making the determinations reflected in the Order, we have considered the impact of our actions on small entities.

F. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

42. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

1. Wireline Providers

43. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1000 or more. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by the rules and policies proposed in the Notice. Thus under this category and the associated small business size standard, the majority of these incumbent local exchange service providers can be considered small providers.

44. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers can be considered small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Seventy of which have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

45. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede data from the 2002 Census, show that there were 3,188 firms in this category that operated for the entire year. Of this total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these Interexchange carriers can be considered small entities. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these 359 companies, an estimated 317 have 1,500 or fewer employees and 42 have more

than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

46. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census Bureau data for 2007, which now supersede 2002 Census data, show that there were 3,188 firms in this category that operated for the entire year. Of the total, 3,144 had employment of 999 or fewer, and 44 firms had had employment of 1,000 employees or more. Thus under this category and the associated small business size standard, the majority of these interexchange carriers can be considered small entities. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

47. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

48. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our action.

49. *Pre-paid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for pre-paid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of these pre-paid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of pre-paid calling cards. Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees. Consequently, the Commission estimates that the majority of pre-paid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

50. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (''toll free'') subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000. Thus under this category and the associated small business size standard, the majority of resellers in this classification can be considered small entities. To focus specifically on the number of subscribers than on those firms which make subscription service available, the most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use. According to our data, as of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,888,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,888,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or fewer small entity 866 subscribers. We do not believe 800 and 800-Like Service Subscribers will be effected by our proposed rules, however we choose to include this category and seek comment on whether there will be an effect on small entities within this category.

2. Wireless Carriers and Service Providers

51. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

52. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those

1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

53. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

54. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $15 million or less in average annual receipts, under SBA rules. The second has a size standard of $25 million or less in annual receipts.

55. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Census Bureau data for 2007 show that 512 Satellite Telecommunications firms that operated for that entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

56. The second category, i.e. ''All Other Telecommunications'' comprises ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,347 firms had annual receipts of under $25 million and 12 firms had annual receipts of $25 million to $49,999,999. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

57. *Common Carrier Paging.* The SBA considers paging to be a wireless telecommunications service and classifies it under the industry classification Wireless Telecommunications Carriers (except satellite). Under that classification, the applicable size standard is that a business is small if it has 1,500 or fewer employees. For the general category of Wireless Telecommunications Carriers (except Satellite), Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small. The 2007 census also contains data for the specific category of ''Paging'' ''that is classified under the seven-number North American Industry Classification System (NAICS) code 5172101. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and 2 have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by our action. In addition, in the Paging Third Report and Order, the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won.

58. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the *2008 Trends Report,* 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. We have estimated that 222 of these are small under the SBA small business size standard.

3. Internet Service Providers

59. The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.,* cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.,* dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small

business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

60. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

G. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

61. *Support Amounts for Voice Service.* In the Order, we adopt an interim rate of reimbursement for Lifeline in lieu of the prior tiered system. The tiered system was tied to the subscriber line charge (SLC), which we find to be an imprecise basis for Lifeline support given the myriad changes in the telecommunications marketplace. This interim monthly rate is set at $9.25 per subscriber. This interim support amount was determined by calculating the average level of support from the most recent disbursement data available. Because the interim support amount is an average, some ETCs will receive more monthly support while others receive less—regardless of size. While there may be a slightly negative economic impact on some small entities, such an impact will be felt by all entities currently receiving more than $9.25 per month per subscriber in Lifeline support, not just small entities. However, as with our adoption of uniform consumer eligibility rules, this uniform interim support amount will simplify program administration by ETCs operating across different SLCs.

62. *Uniform Eligibility Criteria.* As part of the Commission's effort to streamline the program, the Commission adopts a uniform set of consumer eligibility requirements throughout the nation. This rule alleviates some of the administrative burdens on ETCs operating in multiple states caused by varying consumer eligibility requirements. We anticipate that this new rule will significantly simplify program administration by ETCs, resulting in greater program efficiencies. Given that we permit states to adopt more permissive Lifeline eligibility criteria on top of the base of federal Lifeline eligibility criteria, no ETCs will face a smaller Lifeline subscriber base because of the change in eligibility criteria. We expect no economic impact on entities through the adoption of the federal eligibility criteria across all states.

63. *One-per-Household.* First, the Order adopts a one-per-household requirement. ''Household'' is defined consistent with the Low-Income Home Energy Assistance Program as ''any individual or group of individuals who are living together at the same address as one economic unit,'' with an ''economic unit'' defined as ''all individuals contributing to and sharing in the income and expenses of a household'' (which would include persons with no income who benefit from another person's financial support). Second, the Order adopts procedures to enable Lifeline applicants to demonstrate when initially enrolling in the program that any other Lifeline recipients residing at their residential address are part of a separate household and directs USAC, within 30 days of the effective date of the Order, to develop a form that will allow low-income households sharing an address to indicate they are part of a separate household. Third, the Order also directs USAC, within 30 days of the effective date of the Order, to develop print and web materials to be posted on USAC's Web site that both USAC and ETCs can use to educate consumers about the one-per-household rule (*i.e.,* how to determine what persons comprise a household). USAC will prepare materials that the ETCs can rely on to educate their subscribers about the one-per-household requirement.

64. We estimate that these rules will have a minimal economic impact. While the rules will require eligible telecommunications carriers to obtain information from a limited number of consumers about their household arrangements, it will only impact those low-income consumers who reside in group living facilities or at addresses shared by multiple households. This information will be collected using a worksheet to be designed and provided to the ETCs by USAC. This information is necessary to assist qualifying consumers relying on addresses shared by multiple households to obtain Lifeline service and to document their compliance with the one-per-household rule. Additionally, USAC will develop print and web materials that ETCs can use to educate consumers about the one-per-household rule. We do not expect these requirements to have a disproportionate impact on carriers, including those that are small entities.

65. *Certification of Consumer Eligibility.* First, the Order amends § 54.410 of the Commission's rules to require all Lifeline subscribers to provide certain certifications pertaining to their eligibility for Lifeline upon initial program enrollment and annually thereafter. Depending on the state, certifications should be collected from consumers by carriers or the state Lifeline administrator or a state agency.

66. Carriers and states (where applicable) may need to update their existing certification forms to comply with the requirements of § 54.410, as amended. Carriers already collect several similar certifications from Lifeline subscribers at enrollment; thus, we expect that the costs of compliance with the amended rule will be marginally larger. Therefore, we anticipate that the effect of this rule will have minimal economic impact. Carriers and states (where applicable) may choose to use their existing certification forms so long as those forms are updated to comply with the new certification rules. We also provide in the Order that the new certification rules will not go into effect until June 1, 2012, which will give carriers (both large and small) time to make any needed system updates. We also expect to recover cost savings to the program based on the reduction of ineligible consumers stemming from the updated certification requirements. We do not expect that this rule will disproportionately impact small entities.

67. Second, the Order requires ETCs (or the state administrator, where applicable) to check the eligibility of new Lifeline subscribers at enrollment by accessing available state or federal eligibility databases. Where underlying eligibility data cannot be accessed through a database, the Order requires new Lifeline subscribers to provide documentation of program-based eligibility or income-based eligibility, which the entity enrolling the subscriber should review (but not retain). We acknowledge that compliance with the rule we adopt here will involve some administrative costs for ETCs, for example, modifying their internal processes and systems to comply with the new documentation requirement. However, we do not expect

these costs to have a significant economic impact especially since we limit this requirement to new customers rather than requiring ETCs to re-verify all of their subscribers by obtaining documentary proof of eligibility. We do not expect these costs to be disproportionately large for small carriers. We also conclude that those costs are outweighed by the significant benefits gained by protecting the Fund from waste, fraud, and abuse. We estimate in the Order that up to 15 percent of current Lifeline subscribers may be ineligible for the program, potentially representing as much as $375 million of support per year. We expect that a rule requiring ETCs to obtain documentation of program participation from new Lifeline applicants, in conjunction with our efforts to implement a Lifeline database, will enable the Commission to recapture those funds and prevent unbridled future growth in the Fund. The resulting cost savings will in turn benefit those consumers who contribute to the Universal Service Fund, new qualifying low-income consumers, and our goal to modernize the program for a broadband future. Further, while we will require consumers to provide documentation of program- and income-eligibility to ETCs at enrollment, consumers will no longer be required to provide such documentation as part of the annual verification process in federal default states. Moreover, consumers will not need to demonstrate eligibility at enrollment (or annually) once that function is addressed through a database. Lastly, we give ETCs until June 1, 2012, to implement processes to document consumer eligibility for Lifeline. We expect that these changes will reduce the burdens on both consumers and ETCs.

68. Third, the Order requires ETCs to make certain certifications annually and when submitting for reimbursement from the program. The Commission currently directs ETCs to make certain certifications relating to the Lifeline program. Section 54.410 of the Commission's rules, as modified, does not substantially change those requirements; rather, the Commission adds additional certifications that the ETC must make annually and when seeking reimbursement from the Fund. USAC and the Commission have jointly developed the certification language and the forms. Thus, carriers need only make the necessary internal inquiries (*e.g.,* ensure that they have received a signed certification form from each Lifeline subscriber) and sign the forms as provided to them by USAC. We do not expect that this requirement will have an adverse financial impact on small entities.

69. Fourth, we replace the existing process used by ETCs and states to verify ongoing consumer eligibility for Lifeline with a uniform rule requiring all ETCs (or states, where applicable) to re-certify the eligibility of their complete Lifeline subscriber base as of June 1, 2012. By the end of 2012, all ETCs (or states, where applicable) must obtain from each Lifeline subscriber a re-certification form that contains each of the required certifications listed in § 54.410, as amended, and report those results to USAC, the Commission, states (where the state has jurisdiction over the carrier), and Tribal governments (where applicable). Alternatively, in states where a state agency or a third party has implemented a database that carriers may query to re-certify the consumer's continued eligibility, the carrier (or state agency or third-party, where applicable) must instead query the database by the end of 2012 and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification.

70. We have taken steps in implementing this rule to minimize the impact on carriers and states performing the re-certification function. This re-certification may be done on a rolling basis throughout the year, at the ETC's election. ETCs (or states, where applicable) may re-certify the continued eligibility of an ETC's Lifeline subscribers by contacting them—which can be done in any of a number of ways, including in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility for Lifeline. As noted above, where available, ETCs and states will access electronic eligibility data rather than contact each subscriber to obtain an individual re-certification. Lastly, after 2012, ETCs may elect to have USAC administer the self-certification process on their behalf. We do not expect the costs of re-certification to disproportionately burden small entities, who will have a lesser number of subscribers to contact and may opt to use less costly means (such as text message or email) to contact their subscribers for re-certification.

71. *Tribal Lifeline Eligibility.* First, the Order clarifies that residents of Tribal lands are eligible for Lifeline (and Link Up support if served by a high cost recipient) based on (1) income level; (2) participation in any Tribal-specific federal assistance program identified in the Commission's rules; or (3) participation in any other program identified in the Commission's rules. We do not expect that this clarification will have any financial impact, including on small businesses, as it does not change existing program rules, but rather removes any ambiguity in the interpretation of those rules by carriers and consumers.

72. Second, the Order adopts the NPRM proposal to add the Food Distribution Program on Indian Reservations (FDPIR) to the list of programs that confer eligibility. We expect this rule change to have only minimal financial impact. For example, carriers serving eligible residents of Tribal lands will need to update their certification/enrollment forms to add FDPIR to their list of qualifying programs. However, the benefit that will accrue to eligible residents of Tribal lands participating in FDPIR will outweigh the burdens to carriers. We do not expect this rule to have a disproportionate impact on small entities, for whom the cost of compliance would be the same as for other carriers.

73. Third, the Order establishes a waiver and designation process for those Tribal communities that are located outside of reservations, but can show ties to defined Tribal communities, and removes the term ''near reservation'' from the Commission's definition of Tribal lands. We do not expect this rule to have any financial impact, including on small entities, as carriers will not have any role in the designation process.

74. Fourth, the Order clarifies that we will continue to allow self-certification of residence on Tribal lands. We do not expect this rule to have any economic impact on any entities, as it clarifies, rather than changes, existing program rules.

75. *Electronic Signatures and Interactive Voice Response Systems.* In the Order, the Commission clarifies that ETCs may use electronic signatures and interactive voice response systems to obtain Lifeline subscriber certifications, provided the electronic signatures are obtained in accordance with the requirements of the E–SIGN Act. We expect no negative economic impact from this clarification because this clarification makes obtaining subscriber signatures easier for all ETCs.

76. *National Accountability Database.* The Order established a national accountability database to reduce the likelihood that a consumer or household will receive more than one subsidized service through the low-income program. The Order directs the Bureau to work with USAC and OMB to establish and implement the database

and associated processes. The Order directs ETCs to (1) populate the database with the necessary subscriber information to implement these processes and (2) query the database for each new subscriber prior to receiving reimbursement from the fund for that subscriber. ETCs may have to collect customer information which is not currently in their possession to populate the database.

77. While the database imposes an economic impact on carriers to populate the database, and potentially interface with the database, the entire system will be designed to minimize burdens on small entities. There are a number of ways in which the database has been designed to limit the burden on small entities. First, the Commission does not impose any real-time obligations on ETCs to update the database. The ETCs must update the database prior to seeking reimbursement. Second, to the extent that ETCs have not collected the necessary data from existing customers to send to the duplicates database, ETCs will have a significant period of time before the database is operational to collect such information because the Commission projects that the database could take up to a year to build and ETCs are given an additional 60 days to populate the database. The Commission has directed USAC to provide support to ETCs regarding how they should populate the database, and this assistance should further reduce the burden on ETCs, particularly those smaller entities with fewer back-office resources and less sophisticated systems. For similar reasons, the burden on small entities will be limited because the database will be designed to accept the subscriber information in many different formats, not just via a machine to machine connection. The database will include an ID verification function, which had heretofore been undertaken by some ETCs at their own expense. The database includes an exception management and dispute resolution process so that the burden on ETCs to handle disputes if a subscriber is classified as a duplicate by the database will be limited.

78. *Toll Limitation Service Support.* In the Order, the Commission begins the process of eliminating toll limitation service (TLS) support and modifies its rules for which ETCs must offer TLS. The Commission finds that TLS is less relevant in a marketplace where many ETCs do not separately charge for ''toll'' or ''long distance'' calls. To the extent an ETC still distinguishes between local and long distance calling in its Lifeline service, it must provide at no additional cost to the consumer the ability to limit or block calls that would result in additional charge. Support for TLS will be eliminated over three years to mitigate the impact of this change. In the first year of limited TLS support, support will be capped at $3 per month per consumer. In the second year, support will be limited to $2 per month per consumer. In the third year, support will be eliminated. ETCs seeking TLS reimbursement will need to adjust their TLS provisioning methods as there will no longer be a separate TLS reimbursement outside of the standard Lifeline support amount. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above the limits set in the rule.

79. *Link Up.* The Order will eliminate Link Up support to all ETCs on non-Tribal lands and limit Link Up on Tribal lands to high cost recipients deploying infrastructure. Marketplace trends indicate that Lifeline consumers increasingly have service options from ETCs that neither draw on Link Up support nor charge the consumer a service initiation fee. In balancing a number of universal service goals with finite resources, we conclude that dollars currently spent for Link Up can be more effectively spent to improve and modernize the Lifeline program. Some ETCs who had previously been receiving support from the Fund will no longer receive such support, however, the rule will not disproportionately impact small entities because the support is being eliminated for all ETCs serving non-Tribal areas—not just small entitites.

80. *Subscriber Usage of Customer Supported Service.* The Order establishes a rule that pre-paid ETCs who do not charge a fee for the service (pre-paid ETCs) may not seek Lifeline reimbursement until a subscriber initiates service. Moreover, the rules require pre-paid ETCs to de-enroll subscribers who fail to use the service within a consecutive 60-day period and correspondingly update the duplicates database within one business day of any such de-enrollment. These new rules require pre-paid ETCs to monitor usage prior to seeking reimbursement from the low-income fund. In an effort to make compliance easier, the rules identify what actions on the part of consumers constitute usage. Given that carriers already have systems in place whereby usage is monitored so as to prevent consumers from using more than their allocated minutes, the burden of de-enrolling those consumers who do not use the service within a 60-day period is likely minimal. Moreover, while there may be some administrative expense related to updating the database, we anticipate such expense to be nominal. The new rules also require pre-paid ETCs to inform subscribers at service initiation of the usage and de-enrollment policies. This new requirement only applies to those ETCs choosing to provide Lifeline service at no charge to subscribers.

81. *Minimum Consumer Charge.* The Order does not adopt a minimum consumer charge for Lifeline services and eliminates the current rule imposing a minimum local charge on Tribal subscribers. The requirements do not impose any obligations on carriers, large or small, therefore there is no associated cost of compliance.

82. *Marketing & Outreach.* The Order requires ETCs to include plain, easy-to-understand language in all of their Lifeline marketing materials that the offering is a Lifeline-supported service; that Lifeline is a government assistance program; that only eligible consumers may enroll in the program; what documentation is necessary for enrollment; and that the program is limited to one benefit per household, consisting of either wireline or wireless service. Additionally, we require ETCs to disclose the company name under which it does business and the details of its Lifeline service offerings in its Lifeline-related marketing and advertising. We do not anticipate this rule to have a significant economic impact on any entities because the costs of including basic program information in all marketing materials should be minimal.

83. *Audits and Enforcement.* The Order adopts a new audit requirement whereby newly designated ETCs will be audited by USAC within the first 18 months of seeking Lifeline support in any single state. This requirement is the same regardless of the size of the ETC. Moreover, because all ETCs are required to maintain records for a period of three years, submit annual recertification documentation, and be subjected to discretionary USAC audits, this first year audit requirement does not pose any burden or hardship on new ETCs or a disproportionate burden on small ETCs.The Order also requires those ETCs drawing more than $5 million in low-income support from the fund, at the holding company level, to perform a biennial independent audit. This requirement only pertains to large entities therefore there is no impact, let alone a disproportionate one, on small ETCs.

84. In the Order, the Commission requires the submission of certain ownership information to USAC in order to implement our new biennial audit rule. ETCs are required to report

ownership information, including affiliates, holding companies, and any branding, to USAC, along with relevant universal service identifiers so that we may determine at the holding company level which ETCs meet the $5 million threshold. In addition, the Order requires newly designated ETCs to describe service offerings and type of service being provided. These reporting requirements apply to all ETCs equally and do not have a disproportionate impact on small providers. This reporting will help the Commission increase accountability in our universal service programs by simplifying the process of determining the total amount of public support received by each recipient, regardless of corporate structure. This new requirement will impose a burden on all ETCs, though not one that has a significant economic impact. While there will be some administrative costs associated with this requirement, the overall burden should be minimal and will be greater for large ETCs operating with complex corporate structures across multiple study areas.

85. *Payment of Low-Income Support.* The Order adopts a three month transition for low-income support to be disbursed based on actual support in place of the current administrative process of paying low-income support based on projected service. The Order accelerates USAC's payment of low-income support for carriers filing the FCC Form 497 electronically by a monthly deadline. The window by which carriers must file revisions or original FCC Form 497s is reduced from fifteen months from the end of a calendar year, to a rolling twelve month window. In order to accomplish this transition, the Commission sets forth a procedure whereby entities determine which study area codes to transition in each of the transition months, thereby allowing carriers to proportionately distribute any potential financial burden resulting from the transition to payments based on actual support. The Commission sets the transition to payments based on actual support to begin in July 2012, giving small entities, and all ETCs alike, ample time to prepare for the transition to payments based on actual support. Any economic impact of this revision would be equal to all entities.

86. In addition, the Commission expedites payment of low-income funds for carriers that file the FCC Form 497 electronically by the monthly deadline, thereby allowing ETCs to receive payments in a timely manner for timely electronic filings, and helping small entities reduce the negative financial impact of delayed payment. The Commission narrowed the revision window for FCC Form 497s from fifteen months to a rolling twelve month window. While carriers, large or small, may experience a minor burden by narrowing this revision window, the burden is minimized by the transition to payments on actual support. Carriers should not require as much time to scrutinize payments received because the calculations of projections and true-ups is being eliminated, and payments will be based on actual support provided by the ETC. A twelve month rolling window should be sufficient time for carriers to reconcile their books and file any required revisions, without imposing an unfair burden.

87. *Bundled Services.* In the Order, we amend §§ 54.401 and 54.403 of the Commission's rules to adopt a federal policy providing all ETCs (whether designated by a state or this Commission) the flexibility to permit Lifeline subscribers to apply their Lifeline discount to bundled service packages or packages containing optional calling features available to Lifeline consumers. We do not expect this rule change to have a substantial financial impact, as carriers can elect not to offer bundled service packages or packages containing optional calling features to Lifeline consumers. We are not mandating that they do so at this time and will continue to weigh the effects of the flexible policy adopted in the Order. We believe that the benefits to consumers that could result from this rule outweigh the potential costs of compliance for carriers who choose to make such plans available to Lifeline consumers.

88. *Support for Broadband: Pilot Program.* The Order will establish a broadband pilot program aimed at generating statistically significant data that will allow the Commission, ETCs, and the public to analyze the effectiveness of different approaches to using Lifeline funds to making broadband more affordable for low-income Americans while providing support that is sufficient but not excessive. The Commission directs the Bureau to solicit applications from ETCs to participate in the Pilot Program and to select a relatively small number of projects to test the impact on broadband adoption with variations in the monthly discount for broadband services, including variations on the discount amount, the duration of the discount (phased down over time or constant) over a 12-month period. The Bureau will also give preference to ETCs that partner with third parties that have already developed approaches to overcoming broadband adoption barriers, including digital literacy, equipment costs, and relevance.

89. We do not expect these requirements to have a significant economic impact on ETCs because entities have a choice of participating. We also do not expect small entities to be disproportionately impacted. The Bureau will consider whether the projects proposed will promote entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services, consistent with section 257 of the Communications Act, including those that may be socially and economically disadvantaged businesses. All ETCs that choose to participate will be required to collect and submit data throughout the pilot to USAC. The collection of information is required to study the length and amount of subsidy that is necessary for low-income consumers to adopt broadband. The benefits of collecting information outweigh any costs.

90. *Facilities-Based Requirements.* In the Order, the Commission forbears from applying the Act's facilities requirement of section 214(e)(1)(A) to all telecommunications carriers that seek limited ETC designation to participate in the Lifeline program, subject to certain conditions. Specifically, each carrier must (i) comply with certain 911 requirements; and (ii) file, subject to Bureau approval, a compliance plan providing specific information regarding the carrier's service offerings and outlining the measures the carrier will take to implement the obligations contained in this Order. To avoid disruption to subscribers served by existing Lifeline-only ETCs designated prior to December 29, 2011, those ETCs can continue to receive reimbursement pending approval of their compliance plan, provided they submit their plan to the Bureau by July 1, 2012. Carriers designated after December 29, 2011 will not receive reimbursement from the Fund until the Bureau approves their compliance plans.

91. We do not expect these changes to have a disproportionate impact on entities, including those that are small entities, because the Commission will no longer require carriers to seek forbearance from the facilities requirement of section 214(e)(1)(a). The Commission, however, will continue to require carriers seeking to forbear from the facilities requirement of section 214 to comply with certain 911 requirements and to file and obtain approval from the Bureau of a compliance plan describing the ETC's

adherence to certain protections designed to protect consumers and the Fund. The Commission has historically imposed these requirements on carriers seeking to forbear from the facilities requirement so this will not unduly burden to all impacted entities.

H. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

92. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.''

93. *Support Amounts for Voice Service.* The Commission considered the establishment of a separate rate of reimbursement for different types of providers. The Commission determined that such a system of reimbursement would create administrative difficulties for USAC and for ETCs. A tiered system, be it the prior structure or the one contemplated for the benefit of small entities, does not treat all subscribers equally and makes comparison of Lifeline plans difficult for consumers. Therefore, we determined that the benefits of such a structure do not outweigh the costs.

94. *One Per Household.* We considered alternatives to a one-per-household rule, including a rule permitting one Lifeline-supported service per adult and one Lifeline-supported service per residential address. We did not, however, adopt these approaches—the former because it would increase the size of the universal service fund, inconsistent with our program goals, and the latter because it could potentially exclude eligible consumers from the Lifeline program. Thus, we found that the benefits of a one-per-household rule and the associated processes we adopt today outweigh the potential costs.

95. *Certification of Consumer Eligibility.* We considered alternatives that would require ETCs to verify only a portion of their Lifeline subscriber base, including allowing small ETCs within a state to perform sampling in the aggregate rather than on an individual basis, requiring ETCs with a minimal number of Lifeline subscribers to sample fewer subscribers than larger ETCs, and allowing all ETCs to sample a lesser percentage of their Lifeline subscriber base. The approach we adopt in the Order strikes an appropriate balance between these interests by helping to identify and de-enroll ineligible subscribers, while imposing fewer burdens on consumers and ETCs than a full census survey (*i.e.,* requiring consumers to annually produce documentation to verify continued eligibility).

96. *National Accountability Database.* The Commission considered whether ETCs would be obligated to update the database with customer information in real-time. The Commission found that it would be overly burdensome for ETCs, particularly ETCs which are also small entities, to implement real-time connections between the database and carriers given the limited benefits that real-time updates would provide. We therefore did not adopt a rule that the database would have to be updated in real-time. Furthermore, except for information regarding customer de-enrollment, ETCs would have ten business days to update the database once it has become aware that information regarding a subscriber has changed. The Commission adopted a rule that the first ETC to populate the database with a particular customer's information would be able to receive reimbursement for that customer. The Commission acknowledged that this rule would provide an advantage to those ETCs with real-time updating capability, but the Commission found that this approach would reduce the amount of duplicative support and encourage the prompt transmission of data without imposing burdens that a real-time updating requirement might impose on small entities.

97. *Toll Limitation Service Support.* The new TLS support rule, as discussed above, may have an economic impact on entities, including an impact on small entities because they are used to getting TLS support. This rule will have an economic impact only on ETCs unable to provide TLS at an incremental cost above limits set in the rule. In the Order, we note that ILECs typically seek TLS support at a much lower rate than competitive LECs. Small entities that purchase TLS will no longer be able to seek reimbursement for the incremental costs of doing so after 2013. Therefore, small competitive LECs may still be required to offer TLS to Lifeline subscribers but unable to receive sufficient support for the incremental costs of doing so. However, we adopt this TLS support rule to encourage efficiencies in the provisioning of TLS. In light of the concerns expressed by competitive LECs, we considered several other approaches to reforming TLS support, including a shorter timeframe for reduction of TLS support as well as an immediate elimination of support. We chose the approach adopted in the Order because it is the least burdensome method to reform TLS support.

98. *Link Up.* While we considered some carriers' proposal to decrease the Link Up support amount, and others to define more narrowly appropriate and inappropriate uses of Link Up, on balance, the Commission concluded that the dollars spent on Link Up in its current form can be better spent on other uses, such as modernizing the program and constraining the overall size of the fund. We acknowledge that some ETCs will receive less support as a result of the elimination of Link Up funds but the Commission has concluded that Link Up support has been abused by some carriers and that USF dollars are better spent supporting other aspects of the program.

99. *Subscriber Usage of Customer Supported Services.* We extend the consumer usage condition (whereby subscribers will be de-enrolled if they fail to use the service within a consecutive 60-day period) only to free pre-paid services, which are those services for which subscribers do not receive monthly bills and do not have any regular billing relationship with the ETC, and decline at this time to impose this condition on other types of Lifeline supported services. We are sensitive to the administrative burden that a 60-day usage requirement may have on post-paid services, and at this time do not extend the usage requirements to post-paid services, whether wireline or wireless.

100. *Audits and Enforcement.* We adopt a requirement that every ETC providing Lifeline service and drawing $5 million or more in the aggregate on an annual basis from the low-income program hire an independent audit firm to assess the ETC's overall compliance with the program's requirements every two years. We considered imposing the biennial independent audit requirement on all ETCs but rejected that as too burdensome on small entities. We concluded it was appropriate to focus the mandatory independent audit requirement on the largest recipients who post the biggest risk to the program if they lack effective internal controls to ensure compliance with Commission requirements.

101. *Payment of Low-Income Support.* The Commission sought comment on a

one month transition, as proposed by USAC, however the Commission found that the financial impact of the one month proposed transition could have been overly burdensome on the financial well-being of small entities participating in the Lifeline program. The Commission considered a two month transition as suggested by commenters, and went one step further to extend the transition to three months, thus allowing all carriers, especially small entities, to minimize any potential negative financial impact by spreading the transition out over the three months.

102. *Bundled Services.* We considered adopting a rule mandating that all ETCs allow Lifeline discounts to be applied to any package containing a voice component; however, we determined that we did not have sufficient information in the record to evaluate the impact of a rule at this time. We also adopt a rule that ETCs must explicitly notify Lifeline subscribers purchasing bundled packages or packages containing optional calling features that partial payments will first be applied to pay down the allocated price of the Lifeline voice services, and require ETCs to provide clear language to this effect on the subscriber's bill. We do not expect that this rule will disproportionately impact small businesses, which, as above, may opt not to offer such plans to Lifeline subscribers. Additionally, we expect that some carriers may already have processes in place to apply partial payments to maintain the voice portion of a Lifeline calling plan. Moreover, this rule will help to prevent Lifeline subscribers from being disconnected from voice service for non-payment, thereby reducing potential burdens that may result to ETCs from having to re-enroll disconnected subscribers.

103. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the SVA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

XII. Ordering Clauses

104. *Accordingly, it is ordered,* that pursuant to the authority contained in sections 1, 2, 4(i), 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, and 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 160, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 1302, and §§ 1.1 and 1.427 of the Commission's rules, 47 CFR 1.1, 1.427, this Report and Order is *Adopted.*

105. *It is further ordered* that, Part 54 of the Commission's rules, 47 CFR part 54, is *Amended* as set forth in this rule, and such rule amendments shall be effective April 2, 2012, except for those rules and requirements that involve Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the **Federal Register** of OMB approval and of effective dates of such rules, and except for the amendments contained herein to 47 CFR 54.411, 54.412, 54.413 and 54.414 which shall become effective April 1, 2012; and 47 CFR 54.409 which shall become effective June 1, 2012.

106. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AMERICAN BROADBAND & TELECOMMUNICATIONS is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

107. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by MILLENNIUM 2000, INC. is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

108. *It Is Further Ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by NORTH AMERICAN LOCAL, LLC is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

109. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by TOTAL CALL MOBILE, INC. is *granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

110. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, the petition for forbearance filed by AIRVOICE WIRELESS, LLC *Is granted* to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

111. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 4(j), 10, 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 160, 214, 254, we forbear from applying section 214(e)(1)(A) of the Communications Act, 47 U.S.C. 214(e)(1)(A), and § 54.201(d)(1) and (i) of the Commission's rules, 47 CFR 54.201(d)(1), (i), to American Broadband & Telecommunications, Millennium 2000, Inc., North American Local, LLC, Total Call Mobile, Inc. and Airvoice Wireless, LLC to the extent discussed herein and conditioned on fulfillment of the obligations set forth in this order.

112. *It is further ordered* that the Petition of Qwest, Inc. regarding self-certification of subscribers on Tribal lands, filed April 25, 2008, is *granted.*

113. *It is further ordered* that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL seeking a rulemaking regarding payphone service eligibility for Lifeline support, filed December 6, 2010, is *denied.*

114. *It is further ordered* that the Petition of AMERICAN PUBLIC COMMUNICATIONS COUNCIL for interim relief seeking to allow ETCs to receive Lifeline support for services provided to payphones, filed December 6, 2010, is *denied.*

115. *It is further ordered* that the Commission *shall send* a copy of this Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

116. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and record keeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

Subpart A—General Information

■ 2. Amend § 54.5 by revising the definition of ''eligible telecommunications carrier'' to read as follows:

§ 54.5 Terms and definitions.

* * * * *

Eligible telecommunications carrier. ''Eligible telecommunications carrier'' means a carrier designated as such under subpart C of this part.

* * * * *

Subpart B—Services Designated for Support

■ 3. Amend § 54.101 by revising paragraph (a) to read as follows:

§ 54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

* * * * *

Subpart C—Carriers Eligible for Universal Service Support

■ 4. Amend § 54.201 by revising paragraphs (a)(1) and (h) to read as follows:

§ 54.201 Definition of eligible telecommunications carriers generally.

(a) * * *

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to part 36 of this chapter, and subparts D and E of this part.

* * * * *

(h) A state commission shall not designate a common carrier as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part unless the carrier seeking such designation has demonstrated that it is financially and technically capable of providing the supported Lifeline service in compliance with subpart E of this part.

* * * * *

■ 5. Revise § 54.202 to read as follows:

§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

(a) In order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

(1)(i) Certify that it will comply with the service requirements applicable to the support that it receives.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

(b) *Public interest standard.* Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest.

(c) A common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available.

§ 54.209 [Removed]

■ 6. Section 54.209 is removed.

Subpart E—Universal Service Support for Low-Income Consumers

■ 7. Revise § 54.400 to read as follows:

54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income consumer.* A ''qualifying low-income consumer'' is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.

(b) *Toll blocking service.* ''Toll blocking service'' is a service provided by an eligible telecommunications carrier that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control service.* ''Toll control service'' is a service provided by an eligible telecommunications carrier that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation service.* ''Toll limitation service'' denotes either toll blocking service or toll control service

for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, ''toll limitation service'' denotes both toll blocking service and toll control service.

(e) *Eligible resident of Tribal lands.* An ''eligible resident of Tribal lands'' is a ''qualifying low-income consumer,'' as defined in paragraph (a) of this section, living on Tribal lands. For purposes of this subpart, ''Tribal lands'' include any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands—areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et. seq.,* as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.

(f) *Income.* ''Income'' is all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(g) *Duplicative support.* ''Duplicative support'' exists when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.

(h) *Household.* A ''household'' is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An ''economic unit'' consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(i) *National Lifeline Accountability Database or Database.* The ''National Lifeline Accountability Database'' or ''Database'' is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.

(j) *Qualifying assistance program.* A ''qualifying assistance program'' means any of the federal, state, or Tribal assistance programs participation in which, pursuant to § 54.409(a) or (b), qualifies a consumer for Lifeline service, including Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; Temporary Assistance for Needy Families; Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families (Tribal TANF); Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations (FDPIR), and with respect to the residents of any particular state, any other program so designated by that state pursuant to § 54.409(a).

■ 8. Revise § 54.401 to read as follows:

§ 54.401 Lifeline defined.

(a) As used in this subpart, Lifeline means a non-transferable retail service offering:

(1) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(2) That provides qualifying low-income consumers with voice telephony service as specified in § 54.101(a). Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an eligible telecommunications carrier charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers' Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

(b) Eligible telecommunications carriers may allow qualifying low-income consumers to apply Lifeline discounts to any residential service plan that includes voice telephony service, including bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling. Eligible telecommunications carriers may also permit qualifying low-income consumers to apply their Lifeline discount to family shared calling plans.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service for plans that:

(1) Do not charge subscribers additional fees for toll calls; or

(2) That charge additional fees for toll calls, but the subscriber voluntarily elects toll limitation service.

(d) When an eligible telecommunications carrier is designated by a state commission, the state commission shall file or require the eligible telecommunications carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this subpart.

(e) Consistent with § 52.33(a)(1)(i)(C) of this chapter, eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

■ 9. Revise § 54.403 to read as follows:

§ 54.403 Lifeline support amount.

(a) The federal Lifeline support amount for all eligible telecommunications carriers shall equal:

(1) *Basic support amount.* Federal Lifeline support in the amount of $9.25 per month will be made available to an eligible telecommunications carrier providing Lifeline service to a qualifying low-income consumer, if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.

(2) *Tribal lands support amount.* Additional federal Lifeline support of up to $25 per month will be made

available to an eligible telecommunications carrier providing Lifeline service to an eligible resident of Tribal lands, as defined in § 54.400 (e), to the extent that the eligible telecommunications carrier certifies to the Administrator that it will pass through the full Tribal lands support amount to the qualifying eligible resident of Tribal lands and that it has received any non-federal regulatory approvals necessary to implement the required rate reduction.

(b) *Application of Lifeline discount amount.*

(1) Eligible telecommunications carriers that charge federal End User Common Line charges or equivalent federal charges must apply federal Lifeline support to waive the federal End User Common Line charges for Lifeline subscribers. Such carriers must apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the carrier has received the non-federal regulatory approvals necessary to implement the required rate reduction. Other eligible telecommunications carriers must apply the federal Lifeline support amount, plus any additional support amount, to reduce the cost of any generally available residential service plan or package offered by such carriers that provides voice telephony service as described in § 54.101, and charge Lifeline subscribers the resulting amount.

(2) Where a subscriber makes only a partial payment to an eligible telecommunications carrier for a bundled service package, the eligible telecommunications carrier must apply the partial payment first to the allocated price of the voice telephony service component of the package and then to the cost of any additional services included in the bundled package.

(c) *Toll limitation service.* An eligible telecommunications carrier providing toll limitation service voluntarily elected by Lifeline subscribers whose Lifeline plans would otherwise include a fee for placing a toll call that would be in addition to the per month or per billing cycle price of the subscriber's Lifeline service, shall, for April 2012 Lifeline disbursements through December 2013 Lifeline disbursements, receive support in an amount equal to the lesser of:

(1) The eligible telecommunications carrier's incremental cost of providing either toll blocking services or toll control services to each Lifeline subscriber who has selected such service; or

(2) The following amounts for each Lifeline subscriber who has selected toll blocking services or toll control services:

(i) $3.00 per month per subscriber during 2012; and

(ii) $2.00 per month per subscriber during 2013.

■ 10. Add § 54.404 to Subpart E to read as follows

§ 54.404 The National Lifeline Accountability Database.

(a) *State certification.* An eligible telecommunications carrier operating in a state that provides an approved valid certification to the Commission in accordance with this section is not required to comply with the requirements set forth in paragraphs (b) and (c) of this section with respect to the eligible telecommunications carriers' subscribers in that state. A valid certification must include a statement that the state has a comprehensive system in place to prevent duplicative federal Lifeline support that is at least as robust as the system adopted by the Commission and that incorporates information from all eligible telecommunications carriers receiving low-income support in the state and their subscribers. A valid certification must also describe in detail how the state system functions and for each requirement adopted by the Commission to prevent duplicative support, how the state system performs the equivalent functions. The certification must be submitted to the Commission no later than six months from the effective date of this section of the Commission's rules to be valid. Such certification will be considered approved unless the Wireline Competition Bureau rejects the certification within 90 days of filing.

(b) *The National Lifeline Accountability Database.* In order to receive Lifeline support, eligible telecommunications carriers operating in states that have not provided the Commission with approved valid certification pursuant to paragraph (a) of this section must comply with the following requirements:

(1) All eligible telecommunications carriers must query the National Lifeline Accountability Database to determine whether a prospective subscriber who has executed a certification pursuant to § 54.410(d) is currently receiving a Lifeline service from another eligible telecommunications carrier; and whether anyone else living at the prospective subscriber's residential address is currently receiving a Lifeline service.

(2) If the Database indicates that a prospective subscriber, who is not seeking to port his or her telephone number, is currently receiving a Lifeline service, the eligible telecommunications carrier must not provide and shall not seek or receive Lifeline reimbursement for that subscriber.

(3) If the Database indicates that another individual at the prospective subscriber's residential address is currently receiving a Lifeline service, the eligible telecommunications carrier must not seek and will not receive Lifeline reimbursement for providing service to that prospective subscriber, unless the prospective subscriber has certified, pursuant to § 54.410(d) that to the best of his or her knowledge, no one in his or her household is already receiving a Lifeline service.

(4) An eligible telecommunications carrier is not required to comply with paragraphs (b)(1) through (3) of this section if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Lifeline benefit would not result in duplicative support.

(5) Eligible telecommunications carriers may query the Database only for the purposes provided in paragraphs (b)(1) through (b)(3) of this section, and to determine whether information with respect to its subscribers already in the Database is correct and complete.

(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the last four digits of the subscriber's Social Security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline.

(7) In the event that two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(8) All eligible telecommunications carriers must update an existing Lifeline subscriber's information in the Database

within ten business days of receiving any change to that information, except as described in paragraph (b)(10) of this section.

(9) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the subscriber's information. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Lifeline program, and that failure to provide consent will result in subscriber being denied the Lifeline service.

(10) When an eligible telecommunications carrier de-enrolls a subscriber, it must transmit to the Database the date of Lifeline service de-enrollment within one business day of de-enrollment.

(c) *Tribal Link Up and the National Lifeline Accountability Database.* In order to receive universal service support reimbursement for Tribal Link Up, eligible telecommunications carriers operating in states that have not provided the Commission with a valid certification pursuant to paragraph (a) of this section, must comply with the following requirements:

(1) Such eligible telecommunications carriers must query the Database to determine whether a prospective Link Up recipient who has executed a certification pursuant to § 54.410(d) has previously received a Link Up benefit at the residential address provided by the prospective subscriber.

(2) If the Database indicates that a prospective subscriber has received a Link Up benefit at the residential address provided by the subscriber, the eligible telecommunications provider must not seek Link Up reimbursement for that subscriber.

(3) An eligible telecommunications carrier is not required to comply with paragraphs (c)(1) through (c)(2) of this section, if it receives notice from a state Lifeline administrator or other state agency that the administrator or other agency has queried the Database about a prospective subscriber and that providing the prospective subscriber with a Link Up benefit would not result in duplicative support or support to a subscriber who had already received Link Up support at that residential address.

(4) All eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Link Up recipient's full name; residential address; date of birth; and the last four digits of the subscriber's Social Security number, or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Link Up support; and the date of service activation. Where two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

(5) All eligible telecommunications carriers must obtain, from each new and existing subscriber, consent to transmit the information required in paragraph (c) of this section. Prior to obtaining consent, the eligible telecommunications carrier must describe to the subscriber, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the Administrator to ensure the proper administration of the Link Up program, and that failure to provide consent will result in the subscriber being denied the Link Up benefit.

■ 11. Revise § 54.405 to read as follows:

§ 54.405 Carrier obligation to offer Lifeline.

All eligible telecommunications carriers must:

(a) Make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.

(b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

(c) Indicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term ''materials describing the service'' includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms.

(d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.

(e) *De-enrollment*—(1) *De-enrollment generally.* If an eligible telecommunications carrier has a reasonable basis to believe that a Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer under § 54.409, the carrier must notify the subscriber of impending termination of his or her Lifeline service. Notification of impending termination must be sent in writing separate from the subscriber's monthly bill, if one is provided, and must be written in clear, easily understood language. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination, that requires, at a minimum, written notification of impending termination, must comply with the applicable state requirements. The carrier must allow a subscriber 30-days following the date of the impending termination letter required to demonstrate continued eligibility. A subscriber making such a demonstration must present proof of continued eligibility to the carrier consistent with applicable annual re-certification requirements, as described in § 54.410(f). An eligible telecommunications carrier must terminate any subscriber who fails to demonstrate continued eligibility within the 30-day time period. A carrier providing Lifeline service in a state that has dispute resolution procedures applicable to Lifeline termination must comply with the applicable state requirements.

(2) *De-enrollment for duplicative support.* Notwithstanding paragraph (e)(1) of this section, upon notification by the Administrator to any eligible telecommunications carrier that a subscriber is receiving Lifeline service from another eligible telecommunications carrier or that more than one member of a subscriber's household is receiving Lifeline service and therefore that the subscriber should be de-enrolled from participation in that carrier's Lifeline program, the eligible telecommunications carrier must de-enroll the subscriber from participation in that carrier's Lifeline program within five business days. An eligible telecommunications carrier shall not be eligible for Lifeline reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(3) *De-enrollment for non-usage.* Notwithstanding paragraph (e)(1) of this section, if a Lifeline subscriber fails to use, as ''usage'' is defined in § 54.407(c)(2), for 60 consecutive days a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers, an eligible telecommunications carrier must provide the subscriber 30 days' notice, using clear, easily understood language, that the subscriber's failure to use the

Lifeline service within the 30-day notice period will result in service termination for non-usage under this paragraph. If the subscriber uses the Lifeline service within 30 days of the carrier providing such notice, the eligible telecommunications carrier shall not terminate the subscriber's Lifeline service. Eligible telecommunications carriers shall report to the Commission annually the number of subscribers de-enrolled for non-usage under this paragraph. This de-enrollment information must be reported by month and must be submitted to the Commission at the time an eligible telecommunications carrier submits its annual certification report pursuant to § 54.416.

(4) *De-enrollment for failure to re-certify.* Notwithstanding paragraph (e)(1) of this section, an eligible telecommunications carrier must de-enroll a Lifeline subscriber who does not respond to the carrier's attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.410(f); who fails to provide the annual one-per-household re-certifications as required by § 54.410(f); or who relies on a temporary address and fails to respond to the carrier's address re-certification attempts pursuant to § 54.410(g). Prior to de-enrolling a subscriber under this paragraph, the eligible telecommunications carrier must notify the subscriber in writing separate from the subscriber's monthly bill, if one is provided using clear, easily understood language, that failure to respond to the re-certification request within 30 days of the date of the request will trigger de-enrollment. If a subscriber does not respond to the carrier's notice of impending de-enrollment, the carrier must de-enroll the subscriber from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

■ 12. Revise § 54.407 to read as follows:

§ 54.407 Reimbursement for offering Lifeline.

(a) Universal service support for providing Lifeline shall be provided directly to an eligible telecommunications carrier, based on the number of actual qualifying low-income consumers it serves.

(b) An eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each qualifying low-income consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amounts described in § 54.403(a) and (c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's rate for that offering, or similar offerings, subscribed to by consumers who do not qualify for Lifeline.

(c) An eligible telecommunications carrier offering a Lifeline service that does not require the eligible telecommunications carrier to assess or collect a monthly fee from its subscribers:

(1) Shall not receive universal service support for a subscriber to such Lifeline service until the subscriber activates the service by whatever means specified by the carrier, such as completing an outbound call; and

(2) After service activation, an eligible telecommunications carrier shall only continue to receive universal service support reimbursement for such Lifeline service provided to subscribers who have used the service within the last 60 days, or who have cured their non-usage as provided for in § 54.405(e)(3). Any of these activities, if undertaken by the subscriber will establish ''usage'' of the Lifeline service:

(i) Completion of an outbound call;

(ii) Purchase of minutes from the eligible telecommunications carrier to add to the subscriber's service plan;

(iii) Answering an incoming call from a party other than the eligible telecommunications carrier or the eligible telecommunications carrier's agent or representative; or

(iv) Responding to direct contact from the eligible communications carrier and confirming that he or she wants to continue receiving the Lifeline service.

(d) In order to receive universal service support reimbursement, an eligible telecommunications carrier must certify, as part of each request for reimbursement, that it is in compliance with all of the rules in this subpart, and, to the extent required under this subpart, has obtained valid certification and re-certification forms from each of the subscribers for whom it is seeking reimbursement.

(e) In order to receive universal service support reimbursement, an eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline services. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

■ 13. Revise § 54.409 to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) To constitute a qualifying low-income consumer:

(1) A consumer's household income as defined in § 54.400(f) must be at or below 135% of the Federal Poverty Guidelines for a household of that size; or

(2) The consumer, one or more of the consumer's dependents, or the consumer's household must receive benefits from one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families; or

(3) The consumer must meet eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or factors directly related to income.

(b) A consumer who lives on Tribal lands is eligible for Lifeline service as a ''qualifying low-income consumer'' as defined by § 54.400(a) and as an ''eligible resident of Tribal lands'' as defined by § 54.400(e) if that consumer meets the qualifications for Lifeline specified in paragraph (a) of this section or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

(c) In addition to meeting the qualifications provided in paragraph (a) or (b) of this section, in order to constitute a qualifying low-income consumer, a consumer must not already be receiving a Lifeline service, and there must not be anyone else in the subscriber's household subscribed to a Lifeline service.

■ 14. Revise § 54.410 to read as follows:

§ 54.410 Subscriber eligibility determination and certification.

(a) All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.

(b) *Initial income-based eligibility determination.*

(1) Except where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline or using the income-based eligibility criteria provided for in § 54.409(a)(1) or (a)(3) an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber, unless the carrier has received a certification of eligibility from the prospective subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's income-based eligibility using the following procedures:

(A) If an eligible telecommunications carrier can determine a prospective subscriber's income-based eligibility by accessing one or more databases containing information regarding the subscriber's income (''income databases''), the eligible telecommunications carrier must access such income databases and determine whether the prospective subscriber qualifies for Lifeline.

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's income-based eligibility by accessing income databases, the eligible telecommunications carrier must review documentation that establishes that the prospective subscriber meets the income-eligibility criteria set forth in § 54.409(a)(1) or (a)(3). Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the prospective subscriber presents documentation of income that does not cover a full year, such as current pay stubs, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.

(ii) Must not retain copies of the documentation of a prospective subscriber's income-based eligibility for Lifeline.

(iii) Must, consistent with § 54.417, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, an eligible telecommunications carrier must not seek reimbursement for providing Lifeline service to a subscriber, based on that subscriber's income eligibility, unless the carrier has received from the state Lifeline administrator or other state agency:

(i) Notice that the prospective subscriber meets the income-eligibility criteria set forth in § 54.409(a)(1) or (a)(3); and

(ii) A copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

(c) *Initial program-based eligibility determination.*

(1) Except in states where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's program-based eligibility, when a prospective subscriber seeks to qualify for Lifeline service using the program-based criteria set forth in § 54.409(a)(2), (a)(3) or (b), an eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber unless the carrier has received a certification of eligibility from the subscriber that complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's program-based eligibility using the following procedures:

(A) If the eligible telecommunications carrier can determine a prospective subscriber's program-based eligibility for Lifeline by accessing one or more databases containing information regarding enrollment in qualifying assistance programs (''eligibility databases''), the eligible telecommunications carrier must access such eligibility databases to determine whether the prospective subscriber qualifies for Lifeline based on participation in a qualifying assistance program; or

(B) If an eligible telecommunications carrier cannot determine a prospective subscriber's program-based eligibility for Lifeline by accessing eligibility databases, the eligible telecommunications carrier must review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements. Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying assistance program, a notice or letter of participation in a qualifying assistance program, program participation documents, or another official document demonstrating that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household receives benefits from a qualifying assistance program.

(ii) Must not retain copies of the documentation of a subscriber's program-based eligibility for Lifeline services.

(iii) Must, consistent with § 54.517, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

(2) Where a state Lifeline administrator or other state agency is responsible for the initial determination of a subscriber's eligibility, when a prospective subscriber seeks to qualify for Lifeline service using the program-based eligibility criteria provided in § 54.409, an eligible telecommunications carrier must not seek reimbursement for providing Lifeline to a subscriber unless the carrier has received from the state Lifeline administrator or other state agency:

(i) Notice that the subscriber meets the program-based eligibility criteria set forth in §§ 54.409(a)(2), (a)(3) or (b); and

(ii) a copy of the subscriber's certification that complies with the requirements set forth in paragraph (d) of this section.

(d) *Eligibility certifications.* Eligible telecommunications carriers and state Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide prospective subscribers Lifeline certification forms that in clear, easily understood language:

(1) Provide the following information:

(i) Lifeline is a federal benefit and that willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program;

(ii) Only one Lifeline service is available per household;

(iii) A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;

(iv) A household is not permitted to receive Lifeline benefits from multiple providers;

(v) Violation of the one-per-household limitation constitutes a violation of the

Commission's rules and will result in the subscriber's de-enrollment from the program; and

(vi) Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person.

(2) Require each prospective subscriber to provide the following information:

(i) The subscriber's full name;

(ii) The subscriber's full residential address;

(iii) Whether the subscriber's residential address is permanent or temporary;

(iv) The subscriber's billing address, if different from the subscriber's residential address;

(v) The subscriber's date of birth;

(vi) The last four digits of the subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;

(vii) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and

(viii) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in his or her household.

(3) Require each prospective subscriber to certify, under penalty of perjury, that:

(i) The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409;

(ii) The subscriber will notify the carrier within 30 days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit.

(ii) If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in 54.400(e);

(iii) If the subscriber moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within 30 days;

(iv) If the subscriber provided a temporary residential address to the eligible telecommunications carrier, he or she will be required to verify his or her temporary residential address every 90 days;

(v) The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;

(vi) The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge,

(vii) The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and

(viii) The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits pursuant to § 54.405(e)(4).

(e) State Lifeline administrators or other state agencies that are responsible for the initial determination of a subscriber's eligibility for Lifeline must provide each eligible telecommunications carrier with a copy of each of the certification forms collected by the state Lifeline administrator or other state agency from that carrier's subscribers.

(f) *Annual eligibility re-certification process.*

(1) All eligible telecommunications carriers must annually re-certify all subscribers except for subscribers in states where a state Lifeline administrator or other state agency is responsible for re-certification of subscribers' Lifeline eligibility.

(2) In order to re-certify a subscriber's eligibility, an eligible telecommunications carrier must confirm a subscriber's current eligibility to receive Lifeline by:

(i) Querying the appropriate eligibility databases, confirming that the subscriber still meets the program-based eligibility requirements for Lifeline, and documenting the results of that review; or

(ii) Querying the appropriate income databases, confirming that the subscriber continues to meet the income-based eligibility requirements for Lifeline, and documenting the results of that review; or

(iii) Obtaining a signed certification from the subscriber that meets the certification requirements in paragraph (d) of this section.

(3) Where a state Lifeline administrator or other state agency is responsible for re-certification of a subscriber's Lifeline eligibility, the state Lifeline administrator or other state agency must confirm a subscriber's current eligibility to receive a Lifeline service by:

(i) Querying the appropriate eligibility databases, confirming that the subscriber still meets the program-based eligibility requirements for Lifeline, and documenting the results of that review; or

(ii) Querying the appropriate income databases, confirming that the subscriber continues to meet the income-based eligibility requirements for Lifeline, and documenting the results of that review; or

(iii) Obtaining a signed certification from the subscriber that meets the certification requirements in paragraph (d) of this section.

(4) Where a state Lifeline administrator or other state agency is responsible for re-certification of subscribers' Lifeline eligibility, the state Lifeline administrator or other state agency must provide to each eligible telecommunications carrier the results of its annual re-certification efforts with respect to that eligible telecommunications carrier's subscribers.

(5) If an eligible telecommunications carrier is unable to re-certify a subscriber or has been notified of a state Lifeline administrator's or other state agency's inability to re-certify a subscriber, the eligible telecommunications carrier must comply with the de-enrollment requirements provided for in § 54.405(e)(4).

(g) *Re-certification of temporary address.* An eligible telecommunications carrier must re-certify, every 90 days, the residential address of each of its subscribers who have provided a temporary address as part of the subscriber's initial certification or re-certification of eligibility, pursuant to paragraphs (d), (e), or (f) of this section.

§ 54.411 [Removed]

■ 15. Section 54.411 is removed.

■ 16. Add § 54.412 to Subpart E to read as follows:

§ 54.412 Off reservation Tribal lands designation process.

(a) The Commission's Wireline Competition Bureau and the Office of Native Affairs and Policy may, upon receipt of a request made in accordance with the requirements of this section, designate as Tribal lands, for the purposes of the Lifeline and Tribal Link Up program, areas or communities that fall outside the boundaries of existing Tribal lands but which maintain the

same characteristics as lands identified as Tribal lands defined as in § 54.400(c).

(b) A request for designation must be made to the Commission by a duly authorized official of a federally recognized American Indian Tribe or Alaska Native Village.

(c) A request for designation must clearly describe a defined geographical area for which the requesting party seeks designation as Tribal lands.

(d) A request for designation must demonstrate the Tribal character of the area or community.

(e) A request for designation must provide sufficient evidence of a nexus between the area or community and the Tribe, and describe in detail how program support to the area or community would aid the Tribe in serving the needs and interests of its citizens and further the Commission's goal of increasing telecommunications access on Tribal lands.

(f) Upon designation by the Wireline Competition Bureau and the Office of Native Affairs and Policy, the area or community described in the designation shall be considered Tribal lands for the purposes of this subpart.

■ 17. Revise § 54.413 to read as follows:

§ 54.413 Link Up for Tribal lands.

(a) *Definition.* For purposes of this subpart, the term ''Tribal Link Up'' means an assistance program for eligible residents of Tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on Tribal lands, pursuant to subpart D of this part, that provides:

(1) A 100 percent reduction, up to $100, of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on Tribal lands, pursuant to subpart D of this part. For purposes of this subpart, a ''customary charge for commencing telecommunications service'' is the ordinary charge an eligible telecommunications carrier imposes and collects from all subscribers to initiate service with that eligible telecommunications carrier. A charge imposed only on qualifying low-income consumers to initiate service is not a customary charge for commencing telecommunications service. Activation charges routinely waived, reduced, or eliminated with the purchase of additional products, services, or minutes are not customary charges eligible for universal service support; and

(2) A deferred schedule of payments of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber's principal place of residence imposed by an eligible telecommunications carrier that is also receiving high-cost support on Tribal lands, pursuant to subpart D of this part, for which the eligible resident of Tribal lands does not pay interest. The interest charges not assessed to the eligible resident of tribal lands shall be for a customary charge for connecting telecommunications service of up to $200 and such interest charges shall be deferred for a period not to exceed one year.

(b) An eligible resident of Tribal lands may receive the benefit of the Tribal Link Up program for a second or subsequent time only for otherwise qualifying commencement of telecommunications service at a principal place of residence with an address different from the address for which Tribal Link Up assistance was provided previously.

■ 18. Add § 54.414 to Subpart E to read as follows:

§ 54.414 Reimbursement for Tribal Link Up.

(a) Eligible telecommunications carriers that are receiving high-cost support, pursuant to subpart D of this part, may receive universal service support reimbursement for the reduction in their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the customary charge for commencing telecommunications services for which the subscriber does not pay interest, in conformity with § 54.413.

(b) In order to receive universal support reimbursement for providing Tribal Link Up, eligible telecommunications carriers must follow the procedures set forth in § 54.410 to determine an eligible resident of Tribal lands' initial eligibility for Tribal Link Up. Eligible telecommunications carriers must obtain a certification form from each eligible resident of Tribal lands that complies with § 54.410 prior to enrolling him or her in Tribal Link Up.

(c) In order to receive universal service support reimbursement for providing Tribal Link Up, eligible telecommunications carriers must keep accurate records of the reductions in their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the subscriber does not pay interest, in conformity with § 54.413. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart. The reductions in the customary charge for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the subscriber receiving Lifeline services.

§ 54.415 [Removed]

■ 19. Section 54.415 is removed.

■ 20. Revise § 54.416 to read as follows:

§ 54.416 Annual certifications by eligible telecommunications carriers.

(a) *Eligible telecommunications carrier certifications.* Eligible telecommunications carriers are required to make and submit to the Administrator the following annual certifications, under penalty of perjury, relating to the Lifeline program:

(1) An officer of each eligible telecommunications carrier must certify that the carrier has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services. Each eligible telecommunications carrier must make this certification annually to the Administrator as part of the carrier's submission of annual re-certification data pursuant to this section. In instances where an eligible telecommunications carrier confirms consumer eligibility by relying on income or eligibility databases, as defined in § 54.410(b)(1)(i)(A) or (c)(1)(i)(A), the representative must attest annually as to what specific data sources the eligible telecommunications carrier used to confirm eligibility.

(2) An officer of the eligible telecommunications carrier must certify that the carrier is in compliance with all federal Lifeline certification procedures. Eligible telecommunications carriers must make this certification annually to the Administrator as part of the carrier's submission of re-certification data pursuant to this section.

(3) An officer of the eligible telecommunications carrier must certify annually that the carrier has obtained a valid certification form for each subscriber for whom the carrier seeks Lifeline reimbursement.

(b) All eligible telecommunications carriers must annually provide the results of their re-certification efforts, performed pursuant to § 54.410(f), to the Commission and the Administrator.

Eligible telecommunications carriers designated as such by one or more states pursuant to § 54.201 must also provide, on an annual basis, the results of their re-certification efforts to state commissions for subscribers residing in those states where the state designated the eligible telecommunications carrier. Eligible telecommunications carriers must also provide their annual re-certification results for subscribers residing on Tribal lands to the relevant Tribal governments.

(c) States that mandate Lifeline support may impose additional standards on eligible telecommunications carriers operating in their states to ensure compliance with state Lifeline programs.

■ 21. Revise § 54.417 to read as follows:

§ 54.417 Recordkeeping requirements.

(a) Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in § 54.410(d) and (f) for as long as the subscriber receives Lifeline service from that eligible telecommunications carrier.

(b) If an eligible telecommunications carrier provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission requirements governing the Lifeline and Tribal Link Up program.

(c) Non-eligible-telecommunications-carrier resellers that purchase Lifeline discounted wholesale services to offer discounted services to low-income consumers must maintain records to document compliance with all Commission requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. To the extent such a reseller provides discounted services to low-income consumers, it must fulfill the obligations of an eligible telecommunications carrier in §§ 54.405(e), 54.405(f), and 54.410.

■ 22. Add § 54.419 to Subpart E to read as follows:

§ 54.419 Validity of electronic signatures.

(a) For the purposes of this subpart, an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act, as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature.

(b) For the purposes of this subpart, an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

■ 23. Add § 54.420 to Subpart E to read as follows:

§ 54.420 Low income program audits.

(a) *Independent audit requirements for eligible telecommunications carriers.* Companies that receive $5 million or more annually in the aggregate, on a holding company basis, in Lifeline reimbursements must obtain a third party biennial audit of their compliance with the rules in this subpart. Such engagements shall be agreed upon performance attestations to assess the company's overall compliance with rules and the company's internal controls regarding these regulatory requirements.

(1) For purposes of the $5 million threshold, a holding company consists of operating companies and affiliates, as that term is defined in section 3(2) of the Communications Act of 1934, as amended, that are eligible telecommunications carriers.

(2) The initial audit must be completed one year after the Commission issues a standardized audit plan outlining the scope of the engagement and the extent of compliance testing to be performed by third-party auditors and shall be conducted every two years thereafter, unless directed otherwise by the Commission. The following minimum requirements shall apply:

(i) The audit must be conducted by a licensed certified public accounting firm that is independent of the carrier.

(ii) The engagement shall be conducted consistent with government accounting standards (GAGAS).

(3) The certified public accounting firm shall submit to the Commission any rule interpretations necessary to complete the biennial audit, and the Administrator shall notify all firms subject to the biennial audit requirement of such requests. The audit issue will be noted, but not held as a negative finding, in future audit reports for all carriers subject to this requirement unless and until guidance has been provided by the Commission.

(4) Within 60 days after completion of the audit work, but prior to finalization of the report, the third party auditor shall submit a draft of the audit report to the Commission and the Administrator, who shall be deemed authorized users of such reports. Finalized audit reports must be provided to the Commission, the Administrator, and relevant states and Tribal governments within 30 days of the issuance of the final audit report. The reports will not be considered or deemed confidential.

(5) *Delegated authority.* The Wireline Competition Bureau and the Office of Managing Director have delegated authority to perform the functions specified in paragraphs (a)(2) and (a)(3) of this section.

(b) *Audit requirements for new eligible telecommunications carriers.* After a company is designated for the first time in any state or territory the Administrator will audit that new eligible telecommunications carrier to assess its overall compliance with the rules in this subpart and the company's internal controls regarding these regulatory requirements. This audit should be conducted within the carrier's first twelve months of seeking federal low-income Universal Service Fund support.

■ 24. Add § 54.422 to Subpart E to read as follows:

§ 54.422 Annual reporting for eligible telecommunications carriers that receive low-income support.

(a) In order to receive support under this subpart, an eligible telecommunications carrier must annually report the company name, names of the company's holding company, operating companies and affiliates, and any branding (a ''dba,'' or ''doing-business-as company'' or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code. For purposes of this paragraph, ''affiliates'' has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended.

(b) In order to receive support under this subpart, a common carrier designated as an eligible telecommunications carrier under section 214(e)(6) of the Act must annually provide:

(1) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which the eligible telecommunications carrier is designated for any facilities it owns,

operates, leases, or otherwise utilizes that potentially affect:

(i) At least ten percent of the end users served in a designated service area; or

(ii) A 911 special facility, as defined in 47 CFR 4.5(e).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

(A) The date and time of onset of the outage;

(B) A brief description of the outage and its resolution;

(C) The particular services affected;

(D) The geographic areas affected by the outage;

(E) Steps taken to prevent a similar situation in the future; and

(F) The number of customers affected.

(2) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;

(3) Certification of compliance with applicable service quality standards and consumer protection rules;

(4) Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2);

(5) Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

(c) All reports required by this section must be filed with the Office of the Secretary of the Commission, and with the Administrator. Such reports must also be filed with the relevant state commissions and the relevant authority in a U.S. territory or Tribal governments, as appropriate.

Note: The following appendixes will not appear in the Code of Federal Regulations.

Appendix A

Certification Requirements for Lifeline Subscribers

Pursuant to the Universal Service Low-Income Order, all ETCs (or the state Lifeline program administrator, where applicable) must provide the following information in clear, easily understandable language on their initial and annual Lifeline certification forms:

Household Information for Initial and Annual Certification Forms

• *Contact Information:* All certification forms must ask for the Lifeline subscriber's name and address information.

• *Residential Address:* Prior to providing service to a consumer, ETCs must collect a residential address from each subscriber, which the subscriber must indicate is his/her permanent address, and a billing address, if different than the subscriber's residential address. ETCs should inform subscribers that, if the subscriber moves, they must provide their new address to the ETC within 30 days of moving.

• A consumer who lacks a permanent residential address (*e.g.,* address not recognized by the Post Office, temporary living situation) must provide a temporary residential service address or other address identifying information that could be used to perform a check for duplicative support.

• *Consumers using Post Office Box Addresses:* Lifeline subscribers may not use a post office box as their residential address. An ETC may accept a P.O. Box or General Delivery address as a billing address, but not a residential address.

• *Consumers with Temporary Addresses:* ETCs must collect permanent addresses from subscribers. If a subscriber does not have a permanent address, ETCs must:

• Inform applicants that, if they use a temporary address, the ETC will attempt to verify every 90 days that the subscriber continues to rely on that address, and (as noted above) the subscriber must notify the ETC within 30 days of their new address after moving.

• Inform the subscriber that if he or she does not respond to the ETC's address verification attempts within 30 days, the subscriber may be de-enrolled from the ETC's Lifeline service.

• *Multiple Households Sharing an Address:* Upon receiving an application for Lifeline support, all ETCs must check the duplicates database to determine whether an individual at the applicant's residential address is currently receiving Lifeline-supported service. The ETC must also search its own internal records to ensure that it does not already provide Lifeline-supported service to someone at that residential address.

• If nobody at the residential address is currently receiving Lifeline-supported service, the ETC may initiate Lifeline service after determining that the household is otherwise eligible to receive Lifeline and obtaining all required certifications from the household.

• If the ETC determines that an individual at the applicant's residential address is currently receiving Lifeline-supported service, the ETC must collect from the applicant upon initial enrollment and annually thereafter a worksheet that: (1) Explains the Commission's one-per-household rule; (2) contains a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) provides a space for the applicant to initial or certify that he or she shares an address with other adults who do not contribute income to the applicant's household and/or share in the household's expenses; and (4) notifies applicants of the one-per-household certification requirement adopted below and the penalty for a consumer's failure to make the required one-per-household certification (*i.e.,* de-enrollment).

• *One-per-Household Certification:* All consumers must certify that they receive Lifeline support for a single subscription per household.

• All ETCs (or state agencies or third-parties, where they are responsible for Lifeline enrollment in a state) must obtain a certification from the subscriber at sign up and annually thereafter attesting under penalty of perjury that the subscriber's household is receiving no more than one Lifeline-supported service. In addition, the certification form must include a place for the subscriber to separately acknowledge that, to the best of his or her knowledge, no one at the consumer's household is receiving a Lifeline-supported service from any other provider.

• The certification form must explain in clear, easily understandable language that: (1) Lifeline is a federal benefit; (2) Lifeline service is available for only one line per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; and (4) households are not permitted to receive benefits from multiple providers.

• The certification form must also contain clear, easily understandable language stating that violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government.

Eligibility Information for Initial and Annual Certification Forms

• *Identity Information:* All certification forms must ask for the Lifeline subscriber's date of birth and the last 4 digits of the subscriber's social security number.

• *Establishing eligibility for Lifeline:*

• The certification form should be written in clear, easily understandable language and should include a place for the customer to sign under penalty of perjury attesting to his/her eligibility for Lifeline. All ETCs (or the state Lifeline program administrator, where applicable) should obtain the consumer's signature certifying under penalty of perjury that:

• The consumer either participates in a qualifying federal program or meets the income qualifications to establish eligibility for Lifeline;

• The consumer has provided documentation of eligibility, if required to do so;

• The consumer attests that the information contained in his or her application is true and correct to the best of his or her knowledge and acknowledging that providing false or fraudulent information to receive Lifeline benefits is punishable by law. The certification form should explain that Lifeline is a government benefit program

and consumers who willfully make false statements in order to obtain the benefit can be punished by fine or imprisonment or can be barred from the program.

• The certification form must include space for consumers qualifying for Lifeline under an income-based criterion to certify the number of individuals in their household.

• ETCs (or the state administrator, where applicable) should also obtain the consumer's initials or signature on the certification form acknowledging that the consumer may be required to re-certify his or her continued eligibility for Lifeline at any time, and that failure to do so will result in the termination of the consumer's Lifeline benefits.

• *Consumer no longer eligible for Lifeline:* The certification form must notify the consumer using clear, easily understandable language that he or she must inform the ETC within 30 days if (1) The consumer ceases to participate in a federal qualifying program or programs or the consumer's annual household income exceeds 135% of the Federal Poverty Guidelines; (2) the consumer is receiving more than one Lifeline-supported service; or (3) the consumer, for any other reason, no longer satisfies the criteria for receiving Lifeline support. Additionally, prior to enrolling in Lifeline, consumers must certify attest under penalty of perjury that they understand the notification requirement, and that they may be subject to penalties if they fail to follow this requirement.

• *Tribal eligibility:* Consumers seeking Tribal lands Lifeline support must certify that they reside on Federally-recognized Tribal lands.

• *Non-transferability of Lifeline benefit:* The certification form should inform consumers that Lifeline service is a non-transferable benefit, and that a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

Annual Re-Certification of Consumer Eligibility for Lifeline

• By the end of 2012, each Lifeline subscriber enrolled in the program as of June 1, 2012 must provide a signed re-certification form to the ETC (or the state Lifeline administrator, where applicable) attesting to their continued eligibility for Lifeline. This signed certification should collect all of the subscriber information noted above, including an updated address. Consumers may provide the re-certification in writing, by phone, by text message, by email, or otherwise through the Internet.

• Alternatively, where a database containing consumer eligibility data is available, the carrier (or state Lifeline administrator, where applicable) must query the database by the end of 2012 and maintain a record of what specific data was used to re-certify the consumer's eligibility and the date that the consumer was re-certified.

• The ETC or the state administrator, where applicable, must report the results of their re-certification efforts to USAC, the Commission, and the relevant state commission (where the state has jurisdiction over the carrier) by January 31, 2013. ETCs or the state administrator, where applicable, should also provide their re-certification results to the relevant Tribal government, for subscribers residing on reservations or Tribal lands.

• ETCs must remind consumers about the annual re-certification requirement on the ETC's certification form that is completed upon program enrollment and annually thereafter.

Database

• *Consent to provide information to the database:* An ETC must obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit. In the event that USAC identifies a consumer as receiving more than one Lifeline subsidy per household, all carriers involved may be notified so that the consumer may select one service and be de-enrolled from the other.

Appendix B

Lifeline Verification Survey Results for 2011 and 2007

TABLE 1—LIFELINE VERIFICATION RESULTS FOR 2011

State/territory	Subscribers surveyed	Found ineligible	No response to survey	Percentage deemed ineligible	Percentage non-responders
Federal Default States					
American Samoa	62	0	16	0	26
Delaware	534	56	217	10	41
Hawaii	499	61	116	12	23
Indiana	2,066	340	647	16	31
Iowa	12,015	711	4,936	6	41
Louisiana	3,656	331	926	9	25
New Hampshire	629	115	156	18	25
North Dakota	2,240	419	706	19	32
Northern Mariana Islands	1,857	0	0	0	0
South Dakota	2,411	243	802	10	33
Non-Federal-Default States Mandating That ETCs Follow Federal Verification Procedures					
Arkansas	6,114	384	653	6	11
New York	6,276	401	1,755	6	28
North Carolina	4,288	171	689	4	16
Non-Federal-Default States Requiring ETCs To Submit Verification Results to USAC					
Alabama	4,594	858	1,193	19	26
Arizona	1,982	180	674	9	34
Pennsylvania	2,519	226	395	9	16
West Virginia	1,123	198	338	18	30
Average	52,865	4,694	14,219	9	27

TABLE 2—LIFELINE VERIFICATION RESULTS FOR 2007

State/territory	Subscribers surveyed	Found ineligible	No response to survey	Percentage deemed ineligible	Percentage non-responders
Federal Default States					
American Samoa	154	3	0	2	0
Delaware	250	4	162	2	65
Hawaii	296	54	11	18	4
Iowa	9,492	1,646	1,219	17	13
Indiana	2,669	991	1,065	37	40
Louisiana	2,141	673	175	31	8
New Hampshire	483	108	212	22	44
North Dakota	2,795	342	574	12	21
Northern Mariana Islands	947	0	0	0	0
South Dakota	1,823	472	447	26	25
Non-Federal-Default States Mandating That ETCs Follow Federal Verification Procedures					
Arkansas	5,650	1,608	296	28	5
New York	4,208	624	585	15	14
North Carolina	10,534	940	600	9	6
Non-Federal-Default States Requiring ETCs To Submit Verification Results to USAC					
Alabama	4,618	1,393	454	30	10
Arizona	1,313	619	525	47	40
Kentucky	11,482	1,253	1,788	11	16
Pennsylvania	138,453	10,956	9,866	8	7
Puerto Rico	4	3	0	75	0
Tennessee	4,907	1,562	891	32	18
West Virginia	838	109	702	13	84
Average	203,057	23,360	19,572	12	10

Appendix C

INITIAL COMMENTERS

Commenter	Abbreviation
AARP	AARP
Advocates for Basic Legal Equality, Inc., Community Counseling Bristol County, Community Voice Mail, Crossroads Urban Center, Disability Right Advocates, Legal Services Advocacy Project, Low Income Utility Advocacy Project, National Center for Medical-Legal Partnership, National Consumer Law Center, On Behalf of Our, Low-Income Clients, New Jersey Shares, Ohio Poverty Law Center, Open Access Connections, Pennsylvania Utility Law Project, Pro Seniors, Inc., Salt Lake Community Action Program, Texas Legal Services Center, Virginia Citizens Consumer Council.	Consumer Groups
Alaska Telephone Association	ATA
American Library Association	ALA
American Public Communications Council, Inc.	APCC
Amvensys Telecom Holdings, LLC	Amvensys
Area Agency on Aging of West Central Arkansas	Area Agency on Aging WCA
Arkansas Advocates for Nursing Home Residents	AANHR
Association of Programs for Rural Independent Living	APRIL
AT&T	AT&T
Benton Foundation and Center for Rural Strategies Public Knowledge and United Church of Christ, OC Inc.	Benton/PK/UCC
Box Top Solutions, Inc.	Box Top
Budget Prepay, Inc., GreatCall, Inc. and PR Wireless Inc. d/b/a Open Mobile	Budget/GreatCall/PR
CenturyLink	CenturyLink
CGM, LLC	CGM
Cincinnati Bell Inc.	Cincinnati Bell
City Councilor Sean Paulhus (ME)	
City of New York	City of NY
City of North Las Vegas	North Las Vegas
Comcast Corporation	Comcast
Commissioner Brenda Howerton (NC)	
Commissioner Joe Bowser (NC)	
Commissioner Lawrence Weekly (NV)	
Commissioner Michael Page (NC)	
Ogden-Weber Community Action Partnership	OWCAP
COMPTEL	COMPTEL

INITIAL COMMENTERS—Continued

Commenter	Abbreviation
Conexions LLC d/b/a Conexion Wireless	Conexions
Consumer Cellular, Inc.	CCI
Connecticut Department of Public Utility Control	CT DPUC
Councilman Christopher A. Hilbert (VA)	
Councilman Howard Clement (NC)	
Councilman Jamie Benoit (MD)	
Councilman Kelvin E. Washington, Sr. (SC)	
Councilman Ricki Y. Barlow (NV)	
Councilwoman Cora Cole-McFadden (NC)	
Cox Communication Inc.	Cox
CTIA–The Wireless Association	CTIA
Daniel Reyes, III	
Delegate Benjamin S. Barnes	
Delegate Eileen Filler-Corn	
Delegate Joe Morrissey (VA)	
Delegate Paula J. Miller (VA)	
Public Service Commission of the District of Columbia	DC PSC
Educational Services Network, Corp.	EDNet
Executive Councilor Daniel St. Hilaire (NH)	
Florida Public Service Commission	FL PSC
General Communication, Inc.	GCI
Gila River Telecommunications, Inc.	GRTI
House Democratic Caucus (GA)	
Indiana Family and Social Services Administration	Indiana FSSA
Indiana Utility Regulatory Commission	IN URC
Institute for Health, Law & Ethics	IHLE
Iridium Satellite LLC	Iridium
Keep USF Fair Coalition	Keep USF Fair
Kevan Lee Deckelmann	
Las Vegas Urban League	Las Vegas Urban League
The Leadership Conference on Civil and Human Rights	LCCHR
Leap Wireless International, Inc. and Cricket Communications, Inc.	Cricket
Massachusetts Department of Telecommunications and Cable	MA DTC
Mayor Jim Bouley (NH)	
Media Action Grassroots Network	MAG-Net
Michigan Public Service Commission	MI PSC
Minority Media and Telecommunications Council	MMTC
Mississippi Public Service Commission	MS PSC
Public Service Commission of the State of Missouri	MO PSC
National ALEC Association/Prepaid Communications Association	NALA/PCA
National Association for the Advancement of Colored People Reno/Sparks Branch #1112	NAACP Reno Sparks
National Association of State Utility Consumer Advocates	NASUCA
National Association of Telecommunications Officers and Advisors	NATOA
National Cable & Telecommunications Association	NCTA
National Consumer Law Center	NCLC
National Telecommunications Cooperative Association	NTCA
Nebraska Public Service Commission	NE PSC
New America Foundation	NAF
New Hampshire Coalition of Aging Services	NH Coalition of Aging
New Hampshire Coalition Against Domestic and Sexual Violence	NHCADSV
New Jersey Division of Rate Counsel	NJ DRC
New York State Public Service Commission	NY PSC
Nexus Communications, Inc.	Nexus
Ohio Association of Second Harvest Food Banks	OASHF
Open Access Connections (formerly Twin Cities Community Voice Mail), Energy Cents Coalition, Main Street Project, Minnesota Center for Neighborhood, Organizing Voices for Change.	Open Access
One Economy Corp.	One Economy
Partnership for a Connected Illinois	PCI
Public Utilities Commission of Ohio	OH PUC
Public Utilities Commission of Oregon	OR PUC
Rainbow PUSH Coalition	Rainbow PUSH
Reunion Communications, Inc.	Reunion
San Juan Cable LLC d/b/a OneLink Communications	OneLink
Several Members of the Texas House Democratic Caucus	
Smith Bagley, Inc.	SBI
Solix, Inc.	Solix
Southern Nevada Children First	SNCF
Sprint Nextel Corp.	Sprint
State Representative Barbara B. Boyd, Ed. D. (OH)	
State Representative Bob Turner (WI)	
State Representative Christopher J. England (AL)	
State Representative Cory Mason (WI)	

INITIAL COMMENTERS—Continued

Commenter	Abbreviation
State Representative Demetrius C. Newton (AL)	
State Representative Denise Driehaus (OH)	
State Representative Denise Harlow (ME)	
State Representative Diane Russell (ME)	
State Representative Dennis Murray (OH)	
State Representative J.M. Lozano (TX)	
State Representative John F. Knight (AL)	
State Representative John Robinson (AL)	
State Representative John W. Rogers (AL)	
State Representative Leslie Milam Post (AR)	
State Representative Mark Eves (ME)	
State Representative Peter Stuckey (ME)	
State Representative Ralph Howard (AL)	
State Representative Richard Laird (AL)	
State Representative Sheila Lampkin (AR)	
State Representative Stacy Adams (GA)	
State Representative Tony Payton (PA)	
State Senator Jason Wilson (OH)	
State Senator John C. Astle (MD)	
State Senator Thomas Mac Middleton (MD)	
Suzanne Burke	
TCA	TCA
TracFone Wireless, Inc.	TracFone
United States Telecom Association	USTelecom
Verizon and Verizon Wireless	Verizon
ViaSat, Inc.	ViaSat
Virginia Interfaith Center for Public Policy	Virginia Interfaith Center
YourTel America, Inc.	YourTel

Appendix D

REPLY COMMENTERS

Commenter	Abbreviation
Advocates for Basic Legal Equality, Inc., Community Voice Mail National, Disability Rights Advocates, Low Income Utility Advocacy Project, The National Consumer Law Center, on Behalf of our Low-Income Clients, Ohio Poverty Law Center, Open Access Connections, Pennsylvania Utility Law Project, Pro Seniors, Inc., Texas Legal Services Center, Virginia Citizens Consumer Council.	Consumer Groups
American Public Communications Council, Inc	APCC
Amvensys Telecom Holdings, LLC	Amvensys
AT&T	AT&T
California Public Utilities Commission	CA PUC
COMPTEL	COMPTEL
CTIA—The Wireless Association	CTIA
Emerios	Emerios
Fletcher School (Tufts University)	Fletcher School
General Communication, Inc	GCI
Leap Wireless International, Inc. and Cricket Communications, Inc	Cricket
Media Action Grassroots Network	MAG–Net
MFY Legal Services, Inc	MFY Legal Services
Michigan Public Service Commission	MI PSC
Montana Independent Telecommunications Systems, LLC	MITS
National ALEC Association/Prepaid Communications Association	NALA/PCA
National Association of State Utility Consumer Advocates	NASUCA
National Hispanic Media Coalition	NHMC
New Jersey Division of Rate Counsel	NJ DRC
Nexus Communications, Inc	Nexus
One Economy Corp., League of United Latin America Citizens, Minority Media and Telecommunications Council	One Economy
Open Access Connections	Open Access Connections
PR Wireless, Inc. d/b/a Open Mobile	PR Wireless
Regulatory Commission of Alaska	Alaska Commission
Reunion Communications, Inc	Reunion
Sprint Nextel Corporation	Sprint
State of Alaska	Alaska
Texas Statewide Telephone Cooperative, Inc	TX Telephone Cooperative
TracFone Wireless, Inc	TracFone
Verizon and Verizon Wireless	Verizon
YourTel America, Inc.	

Appendix E

USAC DISBURSEMENT PUBLIC NOTICE COMMENTERS

Commenter	Abbreviation
Alexicon Telecommunications Consulting	Alexicon
CenturyLink	CenturyLink
COMPTEL	Comptel
Michigan Public Service Commission	MI PSC
PR Wireless, Inc. d/b/a Open Mobile	PR Wireless
Smith Bagley, Inc	Smith Bagley
South Carolina Office of Regulatory Staff	South Carolina Office of Regulatory Staff
Sprint Nextel Corporation	Sprint
United States Telecom Association	USTelecom
Verizon and Verizon Wireless	Verizon and Verizon Wireless
Reply Commenter	
Massachusetts Department of Telecommunications and Cable	MDTC
National Tribal Telecommunications Association	NTTA
Nexus Communications, Inc	Nexus

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H.R. 1162/P.L. 112–97
To provide the Quileute Indian Tribe Tsunami and Flood Protection, and for other purposes. (Feb. 27, 2012; 126 Stat. 257)

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